

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, January 11, 2011

SUBJECT	DESCRIPTION	PRESENTER
	Organizational Meeting	
	Assigning of Rules	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Joe Stegner
Vice Chair Jeff Siddoway
Sen Brent Hill
Sen Curt McKenzie
Sen Tim Corder
Sen John McGee
Sen James Hammond
Sen Elliot Werk
Sen Diane Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, January 11, 2011
TIME: 3:00 P.M.
PLACE: Room WW53
MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, Bilyeu
ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:00 p.m. with a quorum present. He welcomed the committee, introduced the new committee members, announced that the next scheduled meeting would be Tuesday, January 18th, and relinquished the gavel to **Vice Chairman Siddoway** to make assignments for the Idaho State Tax Commission (ISTC) Pending Rules.

Vice Chairman Siddoway explained that the rules would be assigned to Committee members for review and to prepare any questions they may have regarding that rule. The following assignments were made.

IDAPA 35-State Tax Commission:

Tuesday, January 18, 2011, **Janice Boyd**, ISTC, will present the following rules:

35.01.01-Income Tax Administrative Rules Docket No. 35-0101-1002 (p.2) reviewed by Senators Hill and Werk.
Docket No. 35-0101-1003 (p.48) reviewed by Senators Corder and McKenzie.

35.02.01-Tax Commission Administration and Enforcement Rules Docket No. 35-0201-1001 (p.100) reviewed by Senators Corder and McKenzie.

Wednesday, January 19, 2011, **Dan John**, ISTC, will present the following rules:

35.01.02-Idaho Sales and Use Tax Administrative Rules Docket No. 35-0102-1001 (p.53) and
Docket No. 35-0102-1002 (p.9) reviewed by Senators Hammond and McGee.

Wednesday, January 19, 2011, **Alan Dornfest**, ISTC, will present the following rule:

35.01.03-Property Tax Administrative Rules Docket No. 35-0103-1003 (p.66) reviewed by Senators Bilyeu and Stegner.

Vice Chairman Siddoway returned the gavel to **Chairman Stegner**.

INTRODUCTIONS: **Chairman Stegner** introduced the Committee Page, Hannah Prather, and intern, Peter Thomas. Both gave a brief summary of their education, future plans, hobbies, and families.

ADJOURNMENT: Being no further business, **Senator Stegner** adjourned the meeting at 3:14 p.m. until Tuesday, January 18th at 3:00 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, January 18, 2011

SUBJECT	DESCRIPTION	PRESENTER
IDAPA 35-State Tax Commission:		
35.01.01-Income Tax Administrative Rules	Docket No. 35-0101-1002 (p.2) reviewed by Senators Hill and Werk	Janice Boyd, Idaho State Tax Commission
	Docket No. 35-0101-1003 (p.48) reviewed by Senators Corder and McKenzie	
35.02.01-Tax Commission Administration and Enforcement Rules	Docket No. 35-0201-1001 (p.100) reviewed by Senators Corder and McKenzie	Janice Boyd, Idaho State Tax Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder
Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, January 18, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:00 p.m. with a quorum present. The gavel was turned over to **Vice Chairman Siddoway** to conduct the rules review. **Vice Chairman Siddoway** introduced **Janice Boyd**, Idaho State Tax Commission (ISTC), to present the Income Tax Administrative Rules and the Tax Commission Administration and Enforcement Rules. He also explained the procedures to be followed during the approval process.

35.01.01–INCOME TAX ADMINISTRATIVE RULES:

Docket No. Rule 032 is amended to conform to changes to the Servicemembers Civil Relief Act (Act), Section 511 (50 U.S.C. App. Section 571) that now exempts the income earned from services performed in Idaho by qualifying spouses of servicemembers stationed in Idaho from Idaho income tax. Terms were modified to be consistent with those used in the Act. **Senator Corder** asked if a spouse in another state generates Idaho income, is that Idaho income taxed? **Ms. Boyd** answered that it is not taxed.

35–0101–1002

Rule 075 adds tax brackets for calendar year 2010 and removes the information for calendar year 2005; retaining 5 years of data. **Senator Hill** asked about the standard used to determine the rate of inflation, noting that this is the first time the rates have gone down. **Ms. Boyd** responded that the rates did go down for the first time and that several indexes are used for the computations. Those indexes went down so Idaho's tax rates went down as specified by statute.

Rule 108 is being amended to comply with the 2010 amendment to Idaho Code, Section 66–3022 to limit the amount added to taxable income for rollovers to other state's college savings accounts to the amount deducted in the current and prior years.

Rule 165 amends terminology in Idaho Code, Section 66–402 to be consistent with Senate Bill 1330 passed in 2010 and removes obsolete language.

Rule 170 is amended to include gains treated as ordinary income and adds examples of when gains are treated as ordinary income and don't qualify for the Idaho capital gains deduction. Guidance is added to the rule on how to allocate the recharacterization of capital gains to ordinary income as required by the Internal Revenue Code. In addition, information related to tax year 2001 is being removed.

Rule 171 is being amended to be consistent with legislation passed in 2010. The bill defined real property for purposes of the Idaho capital gains deduction; linked the definition of a revenue-producing enterprise for purposes of the credit for qualifying new employees to the definition used for purposes of the Idaho capital gains deduction; added information to specifically identify items that don't qualify for the Idaho capital gains deduction; and, added a cross reference to Idaho Code, Section 63-3022H(4) and the newly added Rule 172.

Rule 172 provides a definition of a revenue-producing enterprise by combining the definitions for the jobs credit and the capital gains deduction, and includes examples previously included in Rule 745 that now apply to both the credit and the deduction. That information is being removed from Rule 745 and replaced with a reference to Rule 172.

Rule 200 removes the subsection that addresses net operation losses in the case of corporate mergers and adds an example of how net operating losses of unitary corporations are computed and applied against income in carryback years.

Rule 201 is amended to include excess net passive income as income that also may be offset with a net operating loss carried over from years that an S corporation was a C corporation.

Rule 253 applies to nonresidents and part-year residents. It outlines the items to be added to the Idaho adjusted gross income when computing the Idaho adjusted income. Rollovers of amounts in Idaho college savings accounts are now addressed in this rule and obsolete information for 1999 is being removed.

Rule 255 added local income taxes and general sales tax as exceptions to the federal deductions allowed to nonresidents and part-year residents. Obsolete information for tax year 1999 was removed.

Rule 261 modified the sourcing of income from resident estates and trusts that a nonresident must include in income subject to Idaho tax. That income would be Idaho sourced income to the extent that the individual received it directly instead of the estate or trust.

Rule 290 conforms to changes required by the passing of HB 382a in 2010 regarding the taxation of a pass-through entity income when an individual makes the election to have the pass-through entity pay his tax on such income. The bill added a new Idaho Code section to require backup withholding by a pass-through entity including trusts and estates. Changes include removing obsolete information, clarification, and adding a reference to the new Rule 877 with regard to backup withholding.

Rule 291 deals with the same topic as Rule 290 and deals with how the pass-through entity would compute Idaho taxable income if they are paying the tax for those non-filing individual partners and shareholders. The rule deleted obsolete information and added more specific information on what is or isn't allowed in the computations.

Senator Hill stated that when making the election on a form prescribed by the tax commission, the entity must keep and maintain the election form. Is it safe to assume it is not actually filed with the return? **Ms. Boyd** stated that was correct. It would not be with the return but kept at the entity for their own information to verify the individual had made the election for the entity to pay those taxes. **Senator Hill** stated that once the election is made, it is irrevocable for that year: 1) Why does it have to be irrevocable? 2) What if, when the election is made, it goes into the entity's file but before the tax return is filed and payments are paid out, the individual changes his/her mind and decides against making that election, is it still irrevocable? **Ms. Boyd** responded that since the election affects the withholding, if the election was changed, it would cause some problems.

Ms. Boyd continued to explain Rule 291 stating that double deductions are disallowed and if this happens the pass-through owner must add back the duplicated deduction amounts when computing his Idaho taxable income on his individual income tax return.

Rules 720 and 721 related to credit for Idaho research activities deletes obsolete information related to 2001 that is no longer needed in the current administrative code and are being repealed.

Rule 745 is amended by consolidating certain language and transferring it to Rule 172 relating to capital gains.

Rule 746 is a jobs credit rule. This amendment explains how the computations are to be made when the employer is qualified for the first year and must use the number of employees for prior years to apply the law for 2010.

Senator Corder referred back to Rule 721 where the election to be treated as a start-up company is irrevocable. What would cause a company to choose this type of an election and then change their mind? **Ms. Boyd** stated that this section related only to the base period when continuing their research credit. In this case, Idaho statute just follows federal law. **Senator Corder** stated that regardless of whether or not they qualify for the federal credit, they can still be treated as a start-up company by the state and take that credit—why would they change their mind on the state credit? What is the downside? **Ms. Boyd** responded that this rule addresses a way of computing the credit, it is not that they are claiming the credit on the federal and state levels. Definitions between the two are a little different and so the election can be made at the state level and not the federal level. Changing the election would affect later years. This rule is being deleted because it only applies to 2001.

Rules 755–759 are being removed because they are past the statute of limitations.

Rule 771 is being amended to include the grocery credit scheduled increase amounts for 2010 as provided by Idaho Code, Section 636–3024A. This rule also changes language regarding the domicile of dependents of military personnel to conform to the federal law. **Senator Corder** asked how the ISTC knows whether or not the spouses claimed domicile. Is it conceivable that a spouse could declare domicile, apply for the tax credit, go to the PX and buy groceries without paying sales tax, and still get the tax credit? **Ms. Boyd** answered that if they are not working in the state, the only way to know what they are claiming for domicile would be through an audit. If they have the same domicile as the military spouse that would show up; it would be possible that Senator Corder's scenario could happen.

Rule 830 is amended to specify the last day of February as the date for filing information returns to be consistent with the due date for all information returns required to be filed with the ISTC as opposed to following the Internal Revenue Code. The last date of February is also the same due date as W-2s.

Rule 840 is being repealed because it is no longer necessary. The campaign funding statute was repealed in 2010.

Rule 860 is being amended to allow taxpayers to make a donation to the opportunity scholarship program on their tax returns. Modification includes the new code section in the title.

Rule 874 is being amended to require that the Idaho withholding permit number appear on the copy of the W-2 submitted to the ISTC and addresses the consequences of not submitting complete or correct forms.

Rule 877 is a new rule for backup withholding by pass-through entities and addresses all aspects of complying with *Sections 63–3022L and 63–3036B, Idaho Code*.

MOTION: **Senator Werk** moved, seconded by **Senator Hill**, that the Committee adopt Docket No. 35-0101-1002. The motion carried by **voice vote**.

Docket No. 35-0101-1003 Rule 280 is amended to modify and better identify information that must be provided to the partner by a partnership to compute the partner's Idaho income tax.
Rule 286 is amended to modify and better identify information that must be provided to the shareholder by a S Corporation to compute the shareholder's Idaho income tax.

MOTION: **Senator Corder** moved, seconded by **Senator McKenzie**, that the Committee adopt Docket No. 35-0101-1003. The motion carried by **voice vote**.

**35.02.01-TAX
COMMISSION
ADMINISTRATION
AND
ENFORCEMENT
RULES**

Docket No. 35-0201-1001 Rule 153 is being promulgated to adopt the Internal Revenue Service alternative methods allowed to tax preparers for signing income tax returns.

Rule 155 adds a section to the rule to address the methods allowed for filing motor fuels tax returns electronically and the risks of disclosure when filing.

Rule 310 is being amended to add the interest rate applicable for the calendar year 2011 to the table that identifies this information by year. **Senator Hill** inquired if the rules stated what rate of interest is paid on refunds as opposed to what rate is paid on collections. **Ms. Boyd** stated that they were about the same. **Senator Bilyeu** asked if the rate of interest has always been the federal rate plus 2%. **Ms. Boyd** responded that it was changed to simple interest in 1994.

MOTION: **Senator McKenzie** moved, seconded by **Senator Corder**, that the Committee adopt Docket No. 35-0201-1001. The motion carried by **voice vote**.

Vice Chairman Siddoway thanked **Ms. Boyd** for her presentation of the rules and returned the gavel to **Chairman Stegner**.

Chairman Stegner thanked **Ms. Boyd** and the ISTC for presenting these rules and asked **Dan John**, ISTC, to provide a brief update on federal conformity. **Mr. John** stated that the bill has been drafted and the fiscal note must be added then it will be ready to move forward.

Chairman Stegner reminded the committee that pictures would be taken on Wednesday just prior to the Committee meeting; the last of the rules would be presented at tomorrow's meeting; and that a tour of the ISTC is planned for Tuesday, January 25th, at the regular committee meeting time.

ADJOURN: Being no further business, Chairman Stegner adjourned the meeting at 3:46 p.m. until Wednesday, January 19th at 3:00 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, January 19, 2011

SUBJECT	DESCRIPTION	PRESENTER
IDAPA 35-State Tax Commission:		
35.01.02-Idaho Sales and Use Tax Administrative Rules	Docket No. 35-0102-1001 (p.53) reviewed by Senators Hammond and McGe	Dan John, Idaho State Tax Commission
	Docket No. 35-0102-1002 (p.9) reviewed by Senators Hammond and McGee	
35.01.03-Property Tax Administrative Rules	Docket No. 35-0103-1003 (p.66) reviewed by Senators Bilyeu and Stegner	Alan Dornfest, Idaho State Tax Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder
Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 19, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators McKenzie, Corder, Hammond, Werk, and Bilyeu

ABSENT/ EXCUSED: Senators Hill and McGee

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:06 p.m. with a quorum present. **Chairman Stegner** noted, with his apologies, that there were some absences due to the reorganization occurring after the appointment of Senator Geddes to the Tax Commission. The Chair was turned over to **Vice Chairman Siddoway** to continue with the rules review.

Vice Chairman Siddoway introduced **Dan John** and **Alan Dornfest**, Idaho State Tax Commission (ISTC). **Mr. John** presented the Sales and Use Tax Rules and **Mr. Dornfest** the Property Tax Rules.

**35.01.02-IDAHO
SALES AND
USE TAX
ADMINISTRATIVE
RULES:**

Mr. John explained the following rules:

**Docket No.
35-0102-1001**

Rule 012 applies to contractors who construct, alter, repair, or improve real property. Contractors are defined as consumers of materials they use whether or not they resell the material. All sales of tangible personal property to contractors are taxable. **Mr. John** explained that this is a very narrow negotiated rule dealing with rock that is crushed on a property and re-entered back to that property. Anytime materials are incorporated into real property, they are subject to tax. However, in this case, the rule states that when rock is crushed on a property and put back into the property, it is not subject to sales or use tax and the equipment used to crush the rock is not allowed the production exemption. **Senator Bilyeu** requested an example and asked if sales tax was being charged before this. **Mr. John** provided an example and stated that there had been some dispute whether sales tax should or should not be charged; as a result, appeals were filed. There is a clearly stated statute that states: materials that are incorporated into realty are subject to tax to the contractor because that contractor is considered to be the consumer.

Chairman Stegner asked if the Commission had given any thought to the application of any statute that gave the Commission the authority to negotiate a policy decision. This might be a policy issue that should have been brought before the Legislature then sent to the Commission to promulgate a rule.

Mr. John stated that the Board of Tax Commissioners gave very close consideration about the ramifications when the rule was drafted. It was their consensus that the issue was so narrow, it would be very difficult to frame a statute without causing more problems than they were trying to fix.

MOTION:

Senator Hammond moved, seconded by Chairman Stegner, to accept Docket No. 35–0102–1001. The motion carried by voice vote.

**Docket No.
35–0102–1002**

Rule 037 states that a limited liability company or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one or more aircraft is not considered a nonresident. The use of an airplane owned by such an entity will be subject to use tax upon its first use in Idaho. This rule is identical to the rule that deals with automobiles.

MOTION:

Senator Hammond moved, seconded by **Senator Werk**, to accept Docket No. 35–0102–1002. The motion carried by voice vote. (Note: the following two rules are also included in this docket.)

Rule 114 is being amended to state that purchases of food made with coupons or any other authorized form of payment under federal law qualify for an exemption from sales tax.

Rule 136 applies only to projects qualified as Demonstration Pilot Projects and states that after a developer has identified the location and boundaries of a shopping center, identified the qualifying retailers, and has met the expenditure requirements, the ISTC will start depositing 60% of the sales tax revenue from the center into the Demonstration Pilot Project Fund. This rule also changes the language and expenditure requirements to conform to statute.

Vice Chairman Siddoway returned the Chair to **Chairman Stegner**.

**35.01.03–PROPERTY
TAX
ADMINISTRATIVE
RULES**

Mr. Dornfest presented the following rules:

**Docket No.
35–0103–1003**

Rule 006 makes the annual updated references to appropriate and current editions of guides and professional standards used to determine values of certain property, and, to measure assessment level and uniformity. **Senator Bilyeu** asked if there was any way that the references could be updated without doing it annually. **Mr. Dornfest** stated they are not permitted to make a generic statement because there may be a substantive change. This method assures a closer review.

Rule 114 updates the dates of guides and standards used as references. The old rule contained all of the value groupings for analization. The change in language to say "\$25,000 increments" said the same thing in two sentences instead of three pages of verbiage.

The second part of this rule removes the assessors need to report personal property using the North American Industrial Classification System code. Counties were not equipped to comply with this system so reporting was never complete. This portion of the rule was removed because the same information can be obtained in other ways.

Rule 131 provides procedures for conducting equalization ratio studies and allows a follow-up ratio study of secondary categories to be conducted if they are likely to be out of compliance as a result of assessment changes made by the county Board of Equalization. There is also some cleanup language within the amended rule. The practice of never doing a ratio study with less than five sales and/or appraisals was codified with this rule.

Rule 317 deals with occupancy tax which is a prorated type of property tax. Revenue Allocation Urban Renewal Districts complicates this process. The law says that occupancy tax must be distributed exactly the same as property tax. Property tax goes to a variety of taxing districts so the amendment to the rule is for a very specialized situation when a new revenue allocation area is formed during the year. Opposite of what happens with all other taxing districts in the state, it is deemed by law to be retroactively formed to January 1st of the year. **Chairman Stegner** asked why would this be retroactive.

Mr. Dornfest stated that it makes sense from a policy perspective in order to establish a base value that would get prior year data in a timely manner. Since this is a new entity, by making the date retroactive to January 1, that qualification is met without waiting two years to get the data and the revenue.

Chairman Stegner returned the gavel to **Vice Chairman Siddoway**.

Senator Bilyeu asked if there is a possibility of changing categories when this happens. **Mr. Dornfest** responded that with occupancy tax, there would not be any categories because that applies to something that is brand new. So when talking about improvements, the assessor determines the category at the time of occupancy so there would not be a change of category issue.

Rule 609 refers to the Home Owners Exemption (HOE). By statute the maximum amount of the HOE must be adjusted annually based on information provided for the State of Idaho by the U. S. Office of Federal Housing Enterprise Oversight. That office has changed its name and the particular line item being used was the Housing Price Index. These names were changed to Federal Housing Finance Agency, or its successor, and Idaho House Price Index-All Transactions.

Rule 610 is being amended to define Multidwelling or Multipurpose Building and Related Land requiring that the related land value be included in the determination of the HOE exemption amount. This will codify current practice to include the percentage of land, not to exceed one acre, with the percentage of a multidwelling/multipurpose building. **Mr. Dornfest** emphasized that assessors would retain the ability to use their own judgement but increase awareness of this issue.

Rule 613 recognizes that the value of, or the income attributed to, exempt irrigation equipment should not be included or considered when valuing agricultural land and the definition of "Economic Rent" has been changed to state that the rent attributable to exempt irrigation equipment is not included in economic rent. Only the rent solely attributable to the agricultural land is included in Economic Rent. This clarifies that only the amount applied to the land should be used for capitalization for determining the value of the ag land. The irrigation equipment is exempt and should not be used in determining the value of the land.

Rule 614 relates to the value of agricultural land. Language was changed in the examples to make them consistent with the land and equipment issue. In addition, there are two choices assessors can use in doing their analysis; cash rent or crop share rent. The decision should be based on what is typical in the farming market place in their particular county and not on anything else. This rule is only advisory and cautionary in nature.

Rule 802 addresses two issues: 1) New legislation passed in 2010 allowed subtractions as well as additions to new construction roles. This allows de-annexing land as well as annexing so the budget could be reduced as well as increased. The rule explains how to compute the amount of urban renewal increment value when it is being reduced. 2) New legislation passed in 2010 allowed an exemption for certain possessory interests related to improvements on college owned lands used for student housing, etc. A provision in the statute said that if that land reverts to private ownership it would be eligible for the new construction role. A cross reference was added in subsection 06.

The amendment to the rule also made a correction. When a revenue allocation area dissolves, instruction was provided to determine the amount to be added to the current year's new construction roll and the amount to be subtracted from the incremental value as of December 31, 2006.

Senator Bilyeu requested an explanation about when a property is in existence for 10 years and then goes back on the tax role, it is then considered new construction. **Mr. Dornfest** said that the statute reads that when any property is constructed after 2006 within the revenue allocation area, that value does not go on the new construction roll except when the revenue allocation area ceases to exist, then that value is added to the new construction roll whatever the year.

Rule 961 is amended to add new language to the rule applying the value and classification of a homesite adjacent to forest lands. That homesite will be valued independently from the adjacent forest lands. The language is copied from the rules applying to a homesite adjacent to agricultural lands.

Rule 989 provides instructions on how to compute the prorated portion of the funds effected by Idaho Code Sections 50-2908(1)(a) through (e) when computing the levy upon which a Qualified Investment Exemption recapture is to be based. How computations are made are outlined in the rule.

MOTION:

Senator Bilyeu moved, seconded by **Senator Hammond**, to accept Docket No. 35-0103-1003. The motion carried by voice vote. She also extended her thanks to **Mr. Dornfest** for explaining some very complicated rules.

Vice Chairman Siddoway extended his appreciation to both **Mr. John** and **Mr. Dornfest** for bringing the rules to the Committee and returned the gavel to **Chairman Stegner**.

ADJOURNMENT:

Chairman Stegner also thanked the tax commission, announced that the Committee would meet in the Committee Room at 3:00 p.m. on Tuesday for the ISTC tour. Being no further business, the meeting adjourned at 4:04 p.m. until Tuesday, January 25th.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, January 25, 2011

SUBJECT	DESCRIPTION	PRESENTER
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STATE TAX COMMISSION TOUR

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder
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Sen Hammond
Sen Werk
Sen Bilyeu

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, January 25, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Senators Hill, McKenzie, Corder, McGee, Hammond, and Bilyeu

ABSENT/EXCUSED: Vice Chairman Siddoway and Senator Werk

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MINUTES: The Committee took a tour of the Idaho State Tax Commission (ISTC). **David Langhorst**, Commissioner, welcomed the Committee and introduced **Robert L. Geddes**, Chairman, and Commissioners **Sam Haws** and **Tom Katsilometes**. **Chairman Geddes** commented on his recent appointment to the Committee and announced that a very public pending lawsuit had been dropped.

The tour included a general tour of the Audit and Collection Division, the Revenue Operation Division, Taxpayer Services, and Tax Policy/Appeals. The focus this year was on the appeals process. Appeals occur when all other methods have been utilized from the original telephone contact to the personal call by a senior officer. The Collection Division is the largest part of the Bureau.

Randy Tilley, Administrator of the Audit and Collection Division, reported that the largest number of audits are income tax audits. There are auditors in major locations across the state. Approximately 750,000 individual returns are filed and about 16,000 of these are audited. Technology is used to its fullest advantage to ensure compliance within ISTC.

—65% of all income tax returns are received electronically.

—25% of the sales tax reports and payments are filed electronically.

W2s are matched with income tax returns and comparisons of W2s are made between employees and employers. Last year, 85,000 "suspicious" returns were intercepted and investigated. Last year 336 Notice of Deficiencies (NODs) were filed, 282 of those were for double claimed issues. YTD 2010, 230 NODs have been filed, 200 were for double claimed dependents. The Audit/Collection Division also provides data for discoveries. There are 75 full time employess in this area and 120 temporary employees hired during the tax season (75 are returning temps).

Safety has been of some concern because of the current economic climate. Local law enforcement has been utilized to assist during the collection efforts and audit meetings. Collections have improved because of the four year program implemented in 2009 that added funding for the tax commission. The challenge given them by the Governor was a budget of \$1.5 million to recover \$10.0 million in revenues. To date, that amount has been exceeded. The annual report to the Committee will provide more detailed information.

Dan John, Administrator, Tax Policy/Appeals, has a staff of eight policy specialists that respond to sales tax, income tax, and other miscellaneous tax issues.. **Bill Von Tagen**, Deputy Attorney General, is actively involved with this group as legal counsel. The members of the Board are involved in the appeals process individually and then acting as a committee. All appeals are reviewed by all of the Board members.

Chairman Geddes gave closing remarks and stated that the Commissioners will be available at the will of the Committee to present the annual report.

Chairman Stegner thanked the Commissioners and the Committee returned to the Statehouse.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, January 26, 2011

SUBJECT	DESCRIPTION	PRESENTER
	Minutes for January 11, 2011	Senators Siddoway and Hill
GUBERNATORIAL APPOINTMENT CONFIRMATION	David Kinghorn, Board of Tax Appeals	
RS20063	Relating to property exempt from taxation; to revise the required military status for a person not to lose the homeowner's property tax exemption ; declaring an emergency and providing retroactive application.	Senator Hammond
RS20145	Relating to property taxation; to provide for certain certification to the assessor relating to land actively devoted to agriculture.	Senator Corder
RS20177	Relating to Use Tax; to provide an exemption from use tax for military personnel temporarily assigned in this state and spouses who accompany them.	Senator Corder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder
Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 26, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Senators Hill, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED: Vice Chairman Siddoway and Senator McKenzie

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:04 p.m. with a quorum present.

MOTION: **Senator Hill** moved, seconded by Senator Bilyeu, to approve the minutes of January 11, 2011. The motion carried by unanimous voice vote.

GUBERNATORIAL APPOINTMENT: **Chairman Stegner** introduced the first order of business; the Gubernatorial Appointment of David E. Kinghorn to the Board of Tax Appeals. He welcomed Mr. Kinghorn and asked him to take the podium, introduce himself, and provide some background about his qualifications for this job..

Mr. Kinghorn explained that this is the fourth time he has stood before this committee as an appointee by the Governor for the Board of Tax Appeals. He is from Jefferson County in Eastern Idaho. Given the times and economics within the country with construction down and declining values in residential and commercial property, it is a challenge but also an opportunity to serve the State, which is gratifying. **Mr. Kinghorn** is a past assessor and has been involved in local government.

Chairman Stegner asked how many days a week does this position take, and is that a burden for a citizen. **Mr. Kinghorn** stated that the crux of the workload starts in August and runs about four months. Appeals are heard 3-3 1/2 days per week. There is traveling throughout the Eastern Idaho area since that is his "territory." **Chairman Stegner** asked if the workload has increased with the changing economy since it affects the tax aspect. **Mr. Kinghorn** stated it has spiked to over 1,000 appeals compared to 600 last year.

Senator Bilyeu stated her appreciation to Mr. Kinghorn for his service on the Board. How has the job changed since your first introduction to the Board? **Mr. Kinghorn** responded that things have changed. There are more attorneys at the appeals, decisions are tougher, and there is more hostility shown by the public. More people are venting at the appeals. These changes are apparent in both residential and commercial appeals. **Senator Bilyeu** asked how many people are involved in writing the decisions and, with values going down, will there be fewer appeals. **Mr. Kinghorn** answered that there are three decision writers. The number of appeals will probably stay the same or there could be an increase this year. It is hard to determine.

Senator Corder asked what percentage of appeals go to the advantage of the taxpayer and what percentage to the counties. Is that changing over time? **Mr. Kinghorn** said he would provide a tracking report to the Committee. The years vary depending on the appeals that are filed. Citizens are given the benefit of a doubt.

Senator Hill noted that the Board mostly deals with property tax appeals even though people can file appeals for other types of taxes. Why are there more appeals concerning property taxes? **Mr. Kinghorn** responded that efforts to get the message out using flyers sent to local government entities and citizens occur at the time of every appeal. In Mr. Kinghorn's area, issues with the tax commission are down, which seems to indicate that they are doing their jobs.

Chairman Stegner asked if, with the changes in the attitude and mood, do you ever feel physically at risk and are security measures being taken to protect you. **Mr. Kinghorn** said that there have been threats against various board members. There are a lot of angry people. Mr. Kinghorn does not feel in danger in Eastern Idaho and the local sheriff sends someone out when necessary. In Northern Idaho, it is different. There is a concern and local officials are notified when there is an appeal.

Mr. Kinghorn introduced the following colleagues: Lyle Cobbs, Chairman of the Board, Linda Pike, Board member, and Susan Renfron, Administrator.

Senator Stegner welcomed them to the Committee. He announced that the vote would be taken at the next Committee meeting and thanked Mr. Kinghorn for coming before the Committee and for his service. **Lyle Cobbs** testified on behalf of Mr. Kinghorn and made some positive comments about all members of the Board.

RS20063

Senator Hammond presented RS 230063 relating to property exempt from taxation revising the required military status so a person would not lose the homeowner's property tax exemption; declaring an emergency and providing retroactive application. This would allow people in the military who are on active duty to retain their homeowner's exemption. Currently they have to be in a military zone to qualify and this changes that qualification to anyone who is called to active duty.

MOTION:

Senator Corder moved, seconded by **Senator Werk**, to send RS20063 to print. The motion carried by unanimous voice vote.

RS20145

Senator Corder presented RS20145 which is a clean-up bill related to property taxation; to provide for certification to the assessor relating to land actively devoted to agriculture; and the date of the certification. The original statute did not include a date for certification. This will correct the omission.

MOTION:

Senator Werk moved, seconded by **Senator Hill**, to send RS20145 to print. The motion carried by unanimous voice vote.

RS20177

Senator Corder presented RS20177 relating to Use Tax; to provide an exemption from use tax for military personnel temporarily assigned in this state and spouses who accompany them. There is a federal act that exempts nonresidents from paying sales tax. Federal law says a spouse of any active duty military person is entitled to the same programs that the federal law allows to active duty military personnel.

MOTION:

Senator Hammond moved, seconded by **Senator Bilyeu**, to send RS20177 to print. The motion carried by unanimous voice vote.

ADJOURNMENT:

Being no further business, **Senator Stegner** adjourned the meeting at 3:31 p.m. until Tuesday, February 1st.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 18, 2011	Senators Hammond and Werk
	Minutes for January 19, 2011	Senators McGee and Bilyeu
GUBERNATORIAL APPOINTMENTS:	Vote on Dave Kinghorn for Board of Tax Appeals Robert L. Geddes to the Idaho State Tax Commission	
<u>S1052</u>	RELATING TO USE TAX to provide an exemption from use tax for military personnel temporarily assigned in this state and spouses who accompany them.	Senator Corder
<u>S1053</u>	RELATING TO PROPERTY TAXATION to provide for certain certification to the assessor relating to land actively devoted to agriculture.	Senator Corder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 01, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** convened the meeting at 3:03 p.m. with a quorum present.

MOTION: **Senator Werk** moved, seconded by **Senator Hammond**, to approve the January 18th minutes as written. The motion carried by voice vote.

MOTION: **Senator Siddoway** moved, seconded by **Senator Bilyeu**, to approve the January 19th minutes as written. The motion carried by voice vote.

**GUBERNATORIAL
APPOINTMENTS:**

MOTION: **Senator Hill** moved, seconded by **Senator Bilyeu**, to send the gubernatorial appointment of David E. Kinghorn to the Board of Tax Appeals to the floor with the recommendation that it be confirmed by the Senate. The motion passed by voice vote.

Chairman Stegner welcomed **Robert L. Geddes**, the gubernatorial appointee to the Idaho State Tax Commission (ISTC), to the Committee stating it was an honor to have his attendance at this meeting and for the confirmation hearing.

Commissioner Geddes acknowledged the Committee and reported that the last two weeks have been a significant learning experience that will continue on into the future. He explained that, as he filled out the questionnaire, it demonstrated a couple of things: 1) He doesn't have significant conflicts of interest; and 2) His experience with tax issues in the state of Idaho has primarily come from his 16 years as a Senator. Many of the meetings he attended and much of what he had read involved tax policy. **Commission Geddes** stated that since his appointment on January 18th, he has been impressed with the quality of the sitting Commissioners, the program managers, and the staff. They are very dedicated and desire to implement the policies established by the Legislature with respect as to how taxes are administered and collected from Idaho citizens. There are opportunities to build on past experiences.

Commissioner Geddes declared his commitment to each member of the Committee and that he will put in the time and effort to do what is required to serve the Idaho State Tax Commission with honor and integrity.

Chairman Stegner invited **Commissioner Geddes** to introduce his fellow Commissioners Sam Haws, Tom Katsilometes, and David Langhorst.

Chairman Stegner noted that the ISTC has had some recent controversies. What do you think your role should be over the next year as the ISTC tries to regain the confidence of its employees, the Legislature, the Governor's office, and the state of Idaho? **Commissioner Geddes** responded that the most significant role of the ISTC is to implement the tax policy as set by the Legislature in the statutes of the State of Idaho. The mission of the ISTC is to accomplish that very difficult task in a way that is respectful and courteous to the taxpayers and brings integrity to our State.

Commissioner Geddes stated that it is his belief that, when involved with a new organization, within two weeks one should know what the most significant problems are. It is a pleasure to report that, in most cases, the procedures and policies that are in place are in keeping with the policies set by the Legislature. There has been a tremendous amount of misinformation provided through various media outlets and much of the controversy is based on either inaccurate or incomplete information. In regard to the settlement agreements, the process is significantly more robust than what was originally understood. In each and every case, every commissioner has, and will continue to review each of the settlement provisions before any agreement is reached. In the past, the ISTC has operated quietly and efficiently and that is a good thing. However, there needs to be a balance of information flowing back and forth so that the Legislature has confidence in what the ISTC does and the ISTC's understanding and processes comply with the policies that are set by the Legislature.

Commissioner Geddes acknowledged that there is a distinction between a Commissioner and a Commissioner who is the Chairman of the Commission. However, it is not the Chairman's desire to make that distinction. Each Commissioner has significant duties and responsibilities and, with those duties, significant influence in the overall management and direction of the ISTC. Hopefully, the Commissioners know that future administration will be an involvement management style and they will have significant input to provide the best ideas and insights to help the morale and management processes within the body of the Tax Commission to the best of our collective ability. Over a period of time, morale may be improved but it will be difficult facing some of the budgetary constraints that exist. People work very diligently but have no prospect of a salary increase or additional benefits. Creativity is needed both from the Commission's standpoint but also from the Legislature's standpoint to ensure that each employee is recognized for the good work that they do and the contributions that they are making.

Senator Hill reflected on **Commissioner Geddes'** change of status from a Senator to the Chairman of the ISTC. He stated that everyone has responsibilities. The Legislature's responsibility is to set tax policy and the Commission is responsible for enforcing that policy. How do you personally feel about your role as a Commissioner in relationship to the Legislature as far as alerting them to situations where the tax law might be unfair in the results it provides or that there is ambiguity in the tax law causing appeals? Should you keep the Legislature informed about those issues or should you stay away because you are not part of the policy making body? **Commissioner Geddes** responded that the ISTC must work with the Legislature and that **Dan John**, ISTC, consistently works with the Tax Committees to identify problem areas so that people can understand what their responsibilities and liabilities are from a taxpayer's standpoint. It is important to work together as policy is set.

Senator Hill asked **Commissioner Geddes** how all of his combined past experiences has helped prepare him for this position. **Commissioner Geddes** stated that he has had the luxury where virtually every aspect of his professional career has allowed him to surround himself with capable people. The best management style has been support and help to allow people to be successful – that is the key to the success of the Tax Commission as well. All of the people at ISTC are dedicated employees who consistently work toward doing things better.

Senator Bilyeu acknowledged **Commissioner Geddes'** characteristics and qualities that will be beneficial in this position. She inquired if any efforts have been initiated to meet with employees who have had problems with the Commission and how will that issue be managed. **Commissioner Geddes** responded that much of his time since arriving at the Tax Commission has been spent overcoming perceptions that he has read about or thought he understood. It would be a disservice to the Commission to make significant changes before understanding the reality of how the agency is designed to function. There have been some subtle changes within the Commission's 365 employee group and his current focus is on meeting and knowing as many of them as possible. Work will progress to overcome any problems that exist.

Senator McKenzie noted that this appointment and confirmation is not necessarily based on being an expert on tax law, it is a leadership position appointment based upon experiences outside of specific tax knowledge. That is an acknowledgment of the sitting Commissioners and you, serving as Chairman, based on a demonstration of leadership. What is your view on interaction with the staff and public in that role? **Commissioner Geddes** admitted to not being a tax expert but over time, he will develop expertise on tax issues, that is a requirement but the ability to get the most from people is very important as well. There must be a balance between the two.

Senator Hammond was heartened as **Commissioner Geddes** spoke. Intuitive understanding and leadership skills to manage people are rare. To have someone who cares about people and will listen to them will restore confidence within the ISTC.

Senator Werk asked for some discussion on how to approach the tax gap considering the existing, difficult budget situation. How will you approach this issue? **Commissioner Geddes** answered that in preparing for the presentation to the Joint Finance/Appropriations Committee (JFAC), a great deal of time has been spent on this issue. It needs the right level of balance and there are many in the Legislature who feel the Tax Commission should work effectively with the public and not put so much pressure on the people so that they feel harassed. Instead, help them understand that they do have a duty and responsibility to pay the appropriate amount of tax. The Tax Commission also has the responsibility to provide the technical support and assistance to the taxpayers so they can feel comfortable about approaching the Tax Commission. There are field offices in Coeur d'Alene, Lewiston, Idaho Falls, Pocatello, and Twin Falls. Those field offices have been closed to the general public. A process has been started to evaluate the benefit or detriment of that decision. A balance is required to provide the right level of auditing and enforcement with assistance and technical support.

Senator Siddoway noted that even though Pro Tem Hill has not missed a step, your presence is missed. This question is regarding a conflict of interest. You stated that you are a Republican and as such, it is assumed that you hate taxes—do you enjoy paying your taxes? **Commissioner Geddes** responded that, around here, the best taxes are the ones that someone else owes. However, it costs a lot of money to administer government and the people of the State recognize the need for government. Taxes are a necessary evil in allowing resources to develop ensuring that there is an orderly society. I like paying taxes to the extent that once they are paid it feels good.

Chairman Stegner asked **Commissioner Geddes** for his final remarks.

Commissioner Geddes talked about a past Pro Tem who completely rearranged the schedule of the Committee assignments and meeting times. That was done so each and every germane committee would have the opportunity to listen to the presentation of each agency to JFAC. The presentation of the Tax Commission will be held on Thursday at 8:00 a.m. and each member of the Committee is invited to participate and ask questions. He valued the visit by this Committee to the Tax Commission to observe the work that is being done and to ask questions.

It was a shock to see the budget the Tax Commission needed to be successful in running this revenue generating entity. Ways need to be examined to improve by using state of the art and state of the industry methods to ensure that they are being as effective as possible. The budget has remained the same over the past two years. There are some issues to be addressed and there is still the impact of a struggling economy. There is a lot of work that needs to be done and he is looking forward to engaging in that work.

Chairman Stegner thanked **Commissioner Geddes** for appearing before the Committee and complimented the Committee for the questions and serious purpose invoked to serve the Constitution . This has been one of the best interviews that this Senator has participated in. It has been a pleasure.

S1052

RELATES TO USE TAX to provide an exemption from use tax for military personnel temporarily assigned in this state. **Senator Corder** introduced S1052 relating it to the National Soldiers/Sailors Relief Act that prohibits the collection of sales or use fees from service members temporarily domiciled in a state. Idaho law requires the collection of fees after 90 days residency. This law resulted in a case affecting a military couple in Elmore County where both names were on the vehicle registration and the wife was charged the use fee because she was a temporary resident for longer than 90 days. Discussions with the Tax Commission resolved this particular case. This act is to clarify the law that if military personnel accompanied by a spouse bring possessions into the State, they would not be liable for the use tax. If they should buy in Idaho, they will then have to pay the sales/use taxes.

Senator McKenzie inquired if the reason there was no fiscal impact was because this change only reflected the current policy. **Senator Corder** responded that was correct.

MOTION:

Senator Hill moved, seconded by **Senator Hammond**, to send S1052 to the Senate floor with a do pass recommendation. The motion passed by voice vote. **Senator Corder** will be floor sponsor.

S1053

RELATES TO PROPERTY TAXATION and clarifies the date and qualifications for annual certification to the assessor to qualify for the agricultural exemption. **Senator Corder** brought S1053 before the Committee. When the law was rewritten five or six years ago, the time frame for certification to the county assessor was omitted. The date was established in the rule but not in statute. **Senator Corder** requested that the bill be sent to the 14th Order for Amendment to ensure that the correct language to delineate the difference between those parcels five acres or less and all land actively devoted to agriculture.

Senator Bilyeu asked if land over five acres will not need an annual certification for an agricultural exemption. **Senator Corder** concurred.

Senator Hill asked if the proof of income for five acres or less is a new requirement. **Senator Corder** stated that the last sentence regarding proof of income in this bill will be stricken in the amendment.

Senator Werk asked why the provision to prove income is being removed. **Senator Corder** replied that the requirement is already in the certification. **Brent Adamson**, Boise County Assessor, appeared before the Committee to testify in favor of this bill. He provided an actual case example to show the need for the clarification contained in this bill.

Chairman Stegner stated that policy is not being changed; this is codifying and clarifying for a judge. **Mr. Adamson** responded that is nearly correct. The folks that had the problem sat on a commission and the judge ruled in favor of the rule and Boise County.

MOTION:

Senator Werk moved, seconded by **Senator McKenzie**, to send S1053 to the floor with the recommendation that it be referred to the 14th Order for possible amendment. The motion passed by voice vote. **Senator Corder** will be the floor sponsor.

ADJOURNMENT:

Chairman Stegner thanked the Committee for a fine hearing and adjourned the meeting at 4:08 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 02, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 25, 2011	Senators McKenzie and Corder
GUBERNATORIAL APPOINTMENTS:	Vote on Robert L. Geddes for Idaho State Tax Commission	
<u>H6</u>	RELATING TO THE CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM to revise the definition of income; declaring an emergency; and providing retroactive application.	Dan John, Idaho State Tax Commission
<u>H7</u>	RELATING TO CIGARETTE AND TOBACCO PRODUCT TAXES to revise definitions of wholesaler, tobacco products, wholesale sales price, and place of business.	Dan John, Idaho State Tax Commission
<u>H8</u>	RELATING TO INCOME TAXATION to disallow the election for payment of tax by pass-through entities to nonresidents who have additional Idaho taxable income and providing for rulemaking authority; to clarify computation of reportable income from the sale of a publicly traded partnership; to modify the system of backup withholding for individuals who are owners of pass-through entities; to provide application to publicly traded partnerships that provide tax information regarding certain partners; and to make technical correctons.	Dan John, Idaho State Tax Commission
H10	RELATING TO TAXATION OF MOTOR FUELS to provide nonapplication to distributor's licenses canceled for failing to comply with the bonding requirement and to make technical corrections.	Dan John, Idaho State Tax Commission
<u>H11</u>	RELATING TO TAXATION OF FOREST LANDS to remove a requirement to conduct a forest management cost study every five years, to require such study to be conducted periodically and to revise the membership of the Committee on Forest Land Taxation Methodologies.	Dan John, Idaho State Tax Commission

H12

RELATING TO TAXATION OF MOTOR FUELS to make technical corrections to the motor fuels tax:

- 1) to revise the definition of petroleum products.
- 2) to provide that all petroleum products shall be accounted for to the Tax Commission for tax accounting purposes.
- 3) to provide for possible tax refunds when tax was paid directly to the distributor.
- 4) to provide required records and reports.

Dan John,
Idaho State Tax
Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton

Room: WW50

Phone: (208) 332-1315

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 02, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, and Bilyeu

ABSENT/ EXCUSED: Senator Werk

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** convened the meeting at 3:04 p.m. with a quorum present and welcomed the members of the Committee.

MOTION: **Senator Corder** moved, seconded by **Senator McKenzie**, to accept the minutes of January 25, 2011.

VOTE: The motion carried by voice vote.

Chairman Stegner announced that H6 has been withdrawn from the agenda at the request of the Idaho State Tax Commission (ISTC). **Dan John**, ISTC, will be presenting the other bills listed on the agenda.

H7 RELATING TO CIGARETTE AND TOBACCO PRODUCT TAXES: **Mr. John** explained that this is a technical correction bill that makes a number of minor changes.

- 1) Adds "delivery sellers" as part of the definition of wholesaler.
- 2) Corrects a grammatical error.
- 3) Strikes "any substitute therefore" so substitutes such as Nicorette could not be interpreted to be a substitute tobacco.
- 4) Adds to the definition of "Wholesale sales price "any person" selling to a distributor.
- 5) Removes a vending machine as a place of business.

MOTION: **Senator McGee** moved, seconded by **Senator Bilyeu**, to send H7 to the Senate floor with a do pass recommendation.

VOTE: The motion carried by voice vote. **Senator McGee** will carry H7 on the Senate Floor .

H8 RELATING TO INCOME TAXATION: **Mr. John** stated that this bill is a corrections bill for H382, as amended, and passed into law in 2010 making the following changes:

- 1) Clarifies that this statute applies only to nonresidents that have no other Idaho taxable income except for that from the pass through entity.
- 2) Directs the ISTC to draft rules for this process.
- 3) Adds a specific provision dealing with distributions after a sale of a publicly traded partnership.
- 4) Changes the word "Commission" to "State Tax Commission."

Senator Hill asked for a description of the process for backup withholding; such as what is the withholding from; when would payments be due; and, how would payments be reflected on the returns. **Mr. John** responded that when there is distributable income from and S Corp to the partner and a K1 is issued, for that period, money will be withheld/retained from the taxpayer's capital account and

submitted to the ISTC. Under current rules, payment would be due by the end of January of the year following the event. If this passes, the rule will be changed to move that date to a reasonable time so companies have time to determine what the income and withholding will be, probably early fall.

MOTION:

Senator Corder moved, seconded by **Senator Hammond**, to send H8 to the Senate floor with a do pass recommendation.

Senator Hill stated that he would oppose the motion. Last year, this Committee made an amendment that was sent across the rotunda and passed by that body. If no distribution is made, how do you withhold it? The policy has been determined and this Senator will stand by that policy at this time.

Senator Bilyeu asked what would the ramifications be for the Tax Commission if this bill is not passed? **Mr. John** answered that withholding does not necessarily occur when there is a taxable event. Under this proposal, the amount that was withheld would be paid on behalf of the individual and would correspond to the period when there was a taxable event. **Senator Bilyeu** requested the history of the bill.

VOTE:

The motion carried by voice vote. **Senator Corder** will carry H8 on the Senate Floor .

H10

RELATING TO TAXATION OF MOTOR FUELS: **Mr. John** stated that two sections of code deals with the revocation of licenses and permits and the timing in those sections are conflicting. To eliminate the conflict, this bill refers to the provision stated in 63-2428(1), Idaho Code where certain timing is required. **Senator Corder** questioned the validity of a six month waiting period when, in another six months, the license would expire anyway. **Mr. John** explained that, in actuality, a letter would be sent stating that the license was not being exercised and notification must be made to ISTC or it will be cancelled.

MOTION:

Senator Hammond moved, seconded by **Vice Chairman Siddoway**, to send H10 to the Senate floor with a do pass recommendation.

VOTE:

The motion carried by voice vote. **Senator Hammond** will carry H10 on the Senate Floor.

H11

RELATING TO TAXATION OF FOREST LANDS: **Mr. John** explained that this bill eliminates the requirement that a forest management study be conducted every five years. The new language states the study should be provided to the Committee on Forest Land Taxation Methodologies (CFTM) following a recommendation of any changes in custodial expenses but not more frequently than five years from the previous study.

The second part of H11 deals with the CFTM itself. Four members are required to come from an organization that no longer exists so language was changed to say those four members would be representing business entities owning not less that five thousand acres of Idaho forest land and there could be no business relationship between the four business entities. The various stake holders have reviewed this change and no objections were raised.

Chairman Stegner asked who appoints the members from the over five thousand acre segment of the CFTM. **Mr. John** said the statute does not say specifically who appoints them. In the past, the Intermountain Forest Association appointed that group of members. **Chairman Stegner** pursued the question. In the past, that Association would be the responsible party but now there doesn't seem to be anyone in charge. **Jeremy Pisca**, Attorney with Risch

Pisca Law Firm representing Potlatch, explained that it was the intent of the members of the CFTM to carry on in their present roles. The language does state that if a company has a seat on the CFTM, it can designate a replacement person for that seat. If the company fails to fill the seat, it will be filled through recommendations from other members of the CFTM. **Chairman Stegner** agreed but that is assuming the business entity exists. It is a little loose. **Mr. Pisca** answered that the language was crafted in a way so that if the entity no longer exists, the remaining members of the CFTM will select a replacement member.

Vice Chairman Siddoway said if the Committee meets every five years regardless of whether the income and expenses used to set the custodial rate had changed or not; what triggers another meeting to change those evaluations? **Mr. John** clarified that the CFTM does not meet solely for this purpose; it meets on a regular basis. The language that triggers a change is included in the bill in Section 3(d). **Vice Chairman Siddoway** asked if, when there were substantial changes in income and expenses on those forest lands, is it beneficial not to act on those and leave the custodial rate low versus addressing that change. **Mr. John** stated that if the custodial rate is lower than it should be the value of the timber properties will be higher than they should be and conversely that is true as well. The CFTM is made up of representatives of the industry and from industries associated with the Association of Idaho Counties. They would police the activity to keep the rate from being too high or too low.

MOTION: **Senator Hammond** moved, seconded by Senator McGee, to send H11 to the Senate floor with a do pass recommendation.

VOTE: The motion carried by voice vote. **Vice Chairman Siddoway** will carry H11 on the Senate Floor.

H12 RELATING TO TAXATION OF MOTOR FUELS: **Mr. John** explained that H12 is a cleanup bill dealing with terminology. Those changes will:
1) Add ethanol and natural gasoline to the definition of petroleum products.
2) Change the terms "gasoline and aircraft engine fuel" to "motor fuels."
3) Change the term "vendor" to "distributor."
4) Use the term "motor fuels" instead of "gasoline, aircraft engine fuel or special fuels."

MOTION: **Senator Hammond** moved, seconded by **Senator Bilyeu**, to send H12 to the Senate floor with a do pass recommendation.

VOTE: Motion carried by voice vote. **Senator McKenzie** will carry H12 on the Senate floor. .

MOTION ON GUBERNATORIAL APPOINTMENT: **Senator Hill** moved, seconded by **Senator McGee**, to send the gubernatorial appointment of **Robert L. Geddes** to the Idaho State Tax Commission to the Senate floor with the recommendation that it be confirmed by the Senate.

VOTE: The motion carried by voice vote. **Senator Hill** will carry the recommendation on the Senate floor.

ADJOURNMENT: **Chairman Stegner** announced that there would not be a meeting on Thursday and there being no further business, the meeting was adjourned at 3:45 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 08, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 26th	Senators Hill and McGee
<u>H0102</u>	RELATING TO INCOME TAXES to adjust appropriate dates and to revise how the adjusted basis of depreciable property, depreciation, and capital gains and losses shall be computed as a result of two 2010 congressional enactments.	Dan John, Idaho State Tax Commission
PRESENTATION:	Annual Report by the Idaho State Tax Commission	Chairman, Robert L. Geddes Vice Chairman, Sam Haws Commissioner Tom Katsilometes Commissioner David Langhorst Dan John, Administrator, Tax Policy/Appeals

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 08, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:04 p.m. with a quorum present.

MOTION: **Senator Hill** moved, seconded by **Vice Chairman Siddoway**, to approve the minutes of January 26th.

VOTE: Motion carried by voice vote.

Chairman Stegner welcomed the Committee and introduced **Dan John**, Idaho State Tax Commission (ISTC) to present H0102.

H0102 **Mr. John** described this as a conformity bill but Idaho has not conformed to the Internal Revenue Code (IRC) since February 17, 2009. In Section I the bill defines the IRC as meaning the Internal Revenue Code that is in effect on January 1, 2011. **Mr. John** explained that Idaho conforms to the IRC by adopting the definition of Net Taxable Income in Section 63-3002, Idaho Code.

Section 2 of this bill carves out the bonus depreciation provisions, by making an adjustment to income. The bonus depreciation provisions in Section 168(k) IRC are to be disregarded for Idaho income tax. **Mr. John** explained the method he used in determining the fiscal impact.

Chairman Stegner asked if the bonus depreciation calculation was split between 2011 and 2012. **Mr. John** said it was roughly \$25.0 million each year.

Senator Hill asked if the extension for IRC Section 179 was only for two years and, if so, if Congress extends it again, will we have to show a fiscal impact again? **Mr. John** said it was for two years but the analysis for the fiscal impact was already spread over a period of years.

Senator Werk inquired about the impact to Idaho taxpayers if this bill was not passed. **Mr. John** stated this had some very broad changes and would affect everyone from huge corporations to the smallest taxpayer. By not conforming, it would be very difficult to know what the provisions are.

Senator Bilyeu wanted clarification about who this conformity is going to help and who it will carve out. **Mr. John** responded that the provisions will impact major corporations because of some of the extensions. If bonus depreciation is adopted, it would impact larger taxpayers more than smaller ones. The Section 179 deductions, called the small business expensing provision, are for a smaller type of taxpayer. Many of the provisions impact individuals because of some itemized deductions that have expired.

Senator Hill asked what hardships resulted by waiting until February, 2011, to pass this conformity bill. Can state tax returns be filed at this moment either electronically or in paper form. **Mr. John** replied that the Idaho forms have been produced and unless it involved items that were extended, income taxes could be filed in paper form. If there are itemized deductions, the IRS can not accept electronic filings until February 14th. The true hardship occurs when there are pass through returns with K1s. Decisions cannot be made because it is unknown if this bill will be adopted.

Senator Werk asked if there was any information regarding the relative weight of the benefits of these provisions when federal taxes are compared to Idaho returns. **Mr. John** responded that It isn't possible to say what the State might get versus what the Federal government would get.

MOTION:

Senator McGee moved, seconded by **Senator Hill**, to send H0102 to the Senate floor with a do pass recommendation.

Senator Werk stated that he would not support the motion due to the budget situation but reserves the right to support it on the floor.

Senator Corder asked if the fiscal note was the net of the tax credit for bonus depreciation and Section 179. **Mr. John** stated it was net.

VOTE:

The motion carried by voice vote. **Chairman Stegner** will carry H0102 on the Senate floor.

**ANNUAL
REPORT-IDAHO
STATE
TAX
COMMISSION:**

Chairman Stegner welcomed ISTC Chairman, Robert L. Geddes to the Committee and congratulated him on his confirmation by the Senate. **Chairman Geddes** stated his appreciation of the support and debate on the Senate floor. He introduced the following people from ISTC: **Dan John**, who works closely with this Committee; **Alan Dornfest**, expert in property taxes; and Commissioners **David Langhorst**, **Sam Haws**, and **Tom Katsilometes**.

Chairman Geddes reported on the Tax Commission's appearance before the Joint Finance Appropriations Committee (JFAC) when they presented their budget. He noted that some areas of the operations within the Tax Commission would compliment what the Committee is trying to accomplish in improving areas of the law. One instance would be claiming double deductions for a dependent or the grocery tax deduction.

The method of settling cases where protests were filed has been discussed and reviewed in great detail. The number of cases that are audited has almost doubled and the ISTC's technical tools, from software to the telephone system, need to be upgraded to make them more productive and efficient. This year, as in the past, collections are not as significant as required to meet the amount of the refunds. Discussions have occurred regarding provisions that could be implemented to allow that fund to be as healthy as required so taxpayer monies could be returned in a timely manner.

Commissioner Langhorst explained that ISTC is required to provide an annual report to this Committee on settlements of \$50,000 or more. A draft of that report was handed out. **Commissioner Langhorst** went through some of the eight cases and explained the circumstances and how the resolution amounts were determined. He also explained the section of Idaho law that gave ISTC the power and the grounds under which these settlements could be made. Settlements come in all shapes and sizes and they are rare.

Commissioner Haws talked about those settlements over \$50,000 that related to sales tax. Emphasis was put on the difference between a true settlement and a change to audit workpapers. A settlement occurs when it is proven that the taxpayer was liable to pay the tax. Cases involving a change to audit workpapers occur when the auditor determines tax is due. Further investigation proves differently and the decision was changed. That is not a settlement, there was no tax due.

Commissioner Katsilometes thanked all involved for sending **Chairman Geddes** to the Tax Commission. In conforming to a property tax requirement within the statute, the 2010 Five-year Appraisal Progress Report for all 44 counties was presented to the Committee. This is the third year of the five year report. All counties have met their property reevaluation requirements this year.

Chairman Geddes and the Commissioners answered questions from the Committee members. In this process, **Mr. Dornfest** offered to get a report to the Committee on values of operating properties. The overall taxable values of operating properties went up 6% last year—that was a large, unusual increase. Further questions asked for clarifications on certain settlements and addressed the tax gap and what would be done to overcome that issue.

Chairman Stegner closed the question and answer period and thanked the Commissioners for providing this report and the candor and diligence in which it was presented.

ADJOURNMENT: There being no further business, **Chairman Stegner** adjourned the meeting at 4:40 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #1 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 09, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20280</u>	RELATING TO EXTENSION OF TIME UNDER THE STATE INCOME TAX ACT to define when interest will be due when taxpayers are filing an extension of time and when the time period for a credit or refund shall be extended.	Senator Corder
<u>H13</u>	RELATING TO TAXATION to revise a property tax exemption for certain new capital investment and to revise definitions and procedures. This legislation clarifies the qualifying event, expands the definition of "New plant and building facilities," and further defines the "qualifying period."	Dan John, Idaho State Tax Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 09, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Senators Hill, McKenzie, Corder, McGee, Werk, and Bilyeu

ABSENT/ EXCUSED: Vice Chairman Siddoway and Senator Hammond

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:03 p.m. with a quorum present.

RS20280 RELATING TO THE EXTENSION OF TIME UNDER THE STATE INCOME TAX ACT: **Senator Corder** stated that this bill extends the 3-year statute of limitations for active duty military personnel serving in a combat zone to collect a refund.

Senator Hill referred to the Statement of Purpose and asked if there was a difference between active military personnel and eligible veterans. **Senator Corder** said there was no difference. The word eligibility means that the person has been out of the country engaged in a combat zone beyond the stated time period. A veteran can be active or retired.

MOTION: **Senator Werk** moved, seconded by **Senator Hill**, to send RS20280 to print. The motion carried by voice vote.

H13 RELATING TO TAXATION: **Dan John**, Idaho State Tax Commission (ISTC), stated that H13 is a correction bill to an exemption that was initiated in 2008 and it deals with very large capital investments. Questions were raised about how these exemptions would be interpreted should anyone ever qualify for them. The bill clarifies that if a company makes \$1.0 billion worth of investment or more in a county during a seven year period (now 84 month period) they are exempt from property taxes for valuations over \$400.0 million. Most of the language dealing with equipment, material, and fixtures is already in statute. This includes any structural or equipment components that may be stored within the county waiting to be installed; these should not be added to the property tax rolls. The qualifying period language was changed from seven years to 84 months to eliminate any question of when that period would start. The last change emphasizes that the property does not go on any property tax roll or any new construction rolls in accordance with Section 63-301 or 63-301A Idaho Code.

Senator McKenzie requested clarification that the qualifying period does not begin until the first inspection following issuance of a building permit. **Mr. John** agreed. **Senator McKenzie** commented that disallowing investments prior to the inspection does not serve the policy reasons for creating the exemption in 2008, but the qualifying period is existing language that may need to be addressed in a subsequent amendment. **Mr. John** agreed.

Senator Hill asked if there would be an inspection before the building was completed? **Mr. John** stated that inspections are done before the building is completed. **Senator Hill** stated that most of the building could be included in the \$1.0 billion because it is from the date of the first inspection after they get a building permit. **Mr. John** agreed.

Senator Bilyeu added that some of the elements could be part of the value of the building and they would be counted as part of the \$1.0 billion. **Mr. John** responded that there is a period of time when the \$1.0 billion worth of value applies. That period begins after the building permit is issued and the first inspection occurs. At that point, there is 84 months to put in \$1.0 billion worth of building improvements and equipment. Issuance of the building permit and the first inspection is only the trigger and does not indicate whether or not they qualify. Once qualified, the exemption applies to all property whether it was there before the trigger or it is obtained later.

Senator Bilyeu asked if those components were stored in another county, would it make any difference. **Mr. John** stated he hoped not, this only applies to components that are waiting to be installed.

MOTION: **Senator Hill** moved, seconded by **Senator McKenzie**, to send H13 to the Senate floor with a do pass recommendation.

Senator McKenzie noted that this seems to be an odd and arbitrary way to structure this bill and there may be some unintended consequences.

VOTE: The motion carried by voice vote. **Senator Hill** will carry H13 on the Senate floor.

ADJOURNMENT: **Chairman Stegner** announced that there would not be a meeting on Thursday and adjourned the meeting at 3:22 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H89</u>	RELATING TO FIRE PROTECTION DISTRICTS striking the requirement that the Board of Equalization receive a copy of a levy resolution. The State Board of Equalization has no part in this process, it is a county matter.	Representative Bolz
<u>H90</u>	RELATING TO THE NDEPENDENT FINANCIAL AUDITS OF LOCAL GOVERNMENTAL ENTITIES clarifying language regarding when an annual audit is required in certain specific instances. Affects two sections of Idaho Code.	Representative Bolz
<u>S1079</u>	RELATING TO THE EXTENSION OF TIME UNDER THE STATE INCOME TAX ACT extending the time when active duty military personnel may receive a state refund due them, i.e. extends the statute of limitations.	Senator Corder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 15, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** convened the meeting at 3:18 p.m. with a quorum present and introduced **Representative Darrell Bolz**.

H89 RELATING TO FIRE PROTECTION DISTRICTS: **Representative Bolz** explained that this bill removes the requirement to send a certified copy of a resolution providing for a levy to the State Board of Equalization. This Board is not involved in this area of taxation and has no need for any such documentation.

MOTION: **Senator Werk** moved, seconded by **Senator Hammond**, to send H89 to the Senate floor with a do pass recommendation.

VOTE: The motion carried by voice vote. **Senator Werk** will carry H89 on the Senate floor.

H90 RELATING TO THE INDEPENDENT FINANCIAL AUDITS OF LOCAL GOVERNMENTAL ENTITIES: **Representative Bolz** stated that H90 affects two sections of code, 67-4509B and 67-4509D. This legislation clarifies language regarding when an annual audit is required and when you had to come back to an annual audit based on expenditures exceeding \$100,000 but less than \$250,000. The language will be identical in both sections.

Senator Hill requested an example. **Representative Bolz** said that if there was a government entity under the qualifications between \$100,000 and \$250,000, there is a choice of having an annual or bi-annual audit. If the choice is a bi-annual audit and the first year of that audit, \$250,000 is exceeded, it is required that the entity return to an annual audit immediately—the year the excess occurs.

MOTION: **Senator Hammond** moved, seconded by **Vice Chairman Siddoway**, to send H90 to the Senate floor with a do pass recommendation.

VOTE: The motion carried by voice vote. **Senator Bilyeu** will carry H90 on the Senate floor.

S1079 RELATING TO THE EXTENSION OF TIME UNDER THE STATE INCOME TAX ACT: **Senator Corder** explained that this is the third and final piece of legislation dealing with veterans. The bill extends the statute of limitations for military personnel stationed in a military combat zone to collect a state refund. This bill changes the statute to be the same time period as the federal act and does not penalize veterans for being out of the country in a combat zone.

Chairman Stegner asked if this situation has occurred. **Senator Corder** responded that it has happened, although infrequently, and the Tax Commission accommodated the veteran but the statute needs to be corrected in code as well.

Senator Hill asked **Dan John**, Idaho State Tax Commission (ISTC), if this will cause a hardship for the Tax Commission i.e. obtaining past years documents or can it affect the statute of limitations on an audit? **Mr. John** answered that this should not cause any difficulty for the ISTC; it only deals with refunds. There is already an extension under existing code if they owe. All records are kept electronically and they are available.

Senator Hammond asked what the time period would be if it is extended beyond the three years. **Mr. John** replied that it would be up to two years after returning from the combat zone.

Vice Chairman Siddoway asked what obligations does a veteran have to file tax returns while in a combat zone. **Senator Corder** stated that an individual would be exempt from filing. Also, a combat zone does not mean there has to be an act of war, it could be other actions as well, i.e., Korea or Vietnam. **Mr. John** added that the income is exempt for an enlisted person but income for an officer is taxable.

Chairman Stegner inquired if this just complied with what is currently federal code—mirrors federal code. **Senator Corder** concurred.

MOTION: **Senator Hill** moved, seconded by **Senator McGee**, to send S1079 to the Senate floor with a do pass recommendation.

VOTE: The motion carried by voice vote. **Senator Corder** will carry S1079 on the Senate floor.

ADJOURNMENT: **Chairman Stegner** concluded the business for the day, confirmed the meeting scheduled for February 16th, and announced that there will probably not be a meeting on Thursday, February 17th. There being no further business, the meeting was adjourned at 3:34 p.m.

Chairman Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 16, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for February 1st	Senators Hammond and Werk
	Minutes for February 2nd	Senators McGee and Bilyeu
PAGE GRADUATION:	Page Hannah Prather	Chairman Stegner

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 16, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/ EXCUSED: Vice Chairman Siddoway

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:02 p.m. with a quorum present.

APPROVAL OF MINUTES: **Senator Hammond** moved, seconded by **Senator Werk**, to accept the minutes of February 1, 2011 as written. The motion carried by voice vote.

Senator McGee moved, seconded by **Senator Bilyeu**, to accept the minutes of February 2, 2011 as written. The motion carried by voice vote.

PAGE GRADUATION: **Chairman Stegner** asked Page, **Hannah Prather**, to come forward. This meeting is devoted to awarding **Miss Prather** a Senate watch from the Committee in appreciation for her service. Two documents were given to her; 1) a letter of recommendation and, 2) a certificate signed by each committee member. **Miss Prather** thanked the Committee for the opportunity to be a Senate Page. She is considering BSU for her first year of college but has future plans for a MBA in Political Science or Engineering. **Chairman Stegner** thanked **Miss Prather** and welcomed her back any time.

ADJOURNMENT: **Chairman Stegner** concluded the business for the day. There will not be a meeting on Thursday. The next meeting will be Tuesday, February 22nd. The meeting adjourned at 3:08 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for February 8, 2011	Senators Siddoway and McKenzie
	Minutes for February 9, 2011	Senators Corder and Hill
	Minutes for February 15, 2011	Senators Bilyeu and Werk
	Minutes for February 16, 2011	Senators Hammond and Bilyeu
<u>S1118</u>	RELATING TO POWERS AND DUTIES OF THE BOARD OF COUNTY COMMISSIONERS: The purpose of this bill is to clarify the requirements for the training, certification and continuing education for adult misdemeanor probation officers and to provide that both employees and contractors who provide these services must meet the certification requirements.	Dan Chadwick, Idaho Association of Counties Kerry Hong, Idaho Supreme Court

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 23, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/ EXCUSED: Vice Chairman Siddoway

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:03 p.m. with a quorum present and introduced Kristen VanSchoiack, the new Committee Page for the last half of the session. **Ms. VanSchoiack** is from Caldwell and is sponsored by **Senator McGee**. **Ms. VanSchoiack** told the Committee about herself and indicated that she enjoyed drawing and photography. She is planning on going to the College of Idaho and plans to study art and education to be an art teacher.

Chairman Stegner thanked **Ms. VanSchoiack** for her service to the Committee and then introduced **Dan Chadwick**, Idaho Association of Counties (IAC).

S1118 RELATING TO POWERS AND DUTIES OF THE BOARD OF COUNTY COMMISSIONERS: **Mr. Chadwick** explained that the purpose of the bill is to clarify the requirements for the training, certification and continuing education for adult misdemeanor probation officers and to provide that both employees and contractors who provide these services must meet the certification requirements. The intent of current law was to include both employees and contract probation staff to meet certain certification requirements but in 2010, the Peace Officers and Training Council (Council) determined it did not have the authority to certify contract staff providing misdemeanor probation services and that it would require specific statutory authority in order to adopt a rule requiring certification for contract staff. This bill does that (written testimony is included with the minutes). **Mr. Chadwick** introduced **Patty Tobias**, Administrative Director of the Courts, and **Kerry Hong**, Misdemeanor Sentencing Alternative Specialist, Supreme Court. **Mr. Hong** is responsible for the implementation of the misdemeanor probation program.

Senator Hill asked for clarification on authority language. **Mr. Chadwick** stated that Section I specifically provides that county commissioners have authority to hire staff or enter into a contract to provide the services. **Chairman Stegner** asked how many counties contract or provide staff for these services. **Mr. Chadwick** responded that five counties do. This legislation also provides the Police Officer Standards and Training Academy (POST) with the authority to spend fees collected from probationers for training, education, and certification of both employees and contractors.

Chairman Stegner inquired about the companies that are being used as contractors and how many probation officers are there including employees and contractors. **Mr. Chadwick** said that there are currently two companies doing the contracting; Ada County Misdemeanor Probation Inc. that has Ada and Power County and Dushon Misdemeanor Probation has the other three. Mr. Hong will discuss numbers of officers.

Chairman Stegner asked for confirmation that contract officers would not receive any type of employee benefits that an employee would receive. **Mr. Chadwick** confirmed that they would not.

Senator McKenzie referred to Section II that adds the term "certification." Is there somewhere in that code section that refers to POST or is the term "certification" used alone? Is "certification" defined elsewhere in that code section? **Mr. Chadwick** stated that it only relates to the collection of the fee in that particular instance. This section along with 19-5901 and 19-5116, have to be read together to deal with the POST certification. **Senator McKenzie** asked if a misdemeanor probation officer is required to be POST certified. **Mr. Chadwick** said the intention of the original bill was that those officers would be POST certified and the changes contained in these amendments clarifies that intent in Section III of the bill, page 4, line 24. However, the requirement is discretionary where it states "the council may" upon recommendation of a probation training advisory committee and pursuant to this section, establish minimum requirements.

Ms. Tobias provided some background as to why the courts were involved in this area. The courts and counties have long worked closely together using what they called "shared employees" which are those employees used by both entities. A committee was formed led by the courts and IAC to look into the need to add probation misdemeanor officers to the "shared employee" group. As a result HB408 was developed and passed in 2008 to provide for county probation services across the state. (Full testimony attached.) **Mr. Hong** will provide more information on misdemeanor probation.

Mr. Hong explained that it is an important enhancement to the criminal justice system to increase the professionalism of misdemeanor probation services to help curtail the likelihood of an offender escalating criminal behavior. POST certification is an acknowledgment of an officer's mastery of the necessary knowledge to accomplish this goal. This legislation provides recognition for private sector contract misdemeanor probation services to be in line with that afforded to county employees and provides authority for the POST Council to establish certification standards for both. (Full testimony attached.) Funding will come from fees paid by probationers.

Chairman Stegner asked how the training for the three contractors that recently graduated from the first POST class was paid for. **Mr. Hong** replied that it was paid for from the dedicated training fund for the cost of attending the academy.

Senator Bilyeu asked if there were any other training or basic education requirements other than the POST certification. **Mr. Hong** answered that there are additional education requirements but they vary by county. Certification is just the part of the total package.

Senator Hammond asked what kind of offenses required a probationary period. **Mr. Hong** responded that misdemeanor offenses are statutory in nature and so probation is determined by a judge at the sentencing order. There is a broad range of offenses under the overall category of misdemeanor.

Senator Hill asked if there are sufficient funds coming in to pay for this certification and will there be a point where additional funds will be needed or, if not, will a saturation point be reached and would there be funds left over. **Mr. Hong** said that the monthly average is around \$10,000/month. Currently, there is a solid funding stream and sufficient dollars to certify all existing applicants. Those dollars are dedicated to funding the POST academy.

Senator Bilyeu asked what types of crimes requiring these services are most common. **Mr. Hong** explained that there were three categories; low, moderate and maximum risk. About 24% were maximum risk and the rest were between moderate and low risk. Crimes would be DUI, property crimes, vandalism, and drug related incidents. **Ms. Tobias** interjected that a significant area was domestic assault and battery – the domestic violence type of offenses. A strong, competent, well trained, probation officer monitoring the programs that are assigned to those on probation makes the success rate of those maximum risk cases much higher.

MOTION: **Senator Hammond** moved, seconded by **Senator Hill**, to send S1118 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator McKenzie** will carry S1118 on the Senate floor.

H112 RELATING TO AUCTIONEERS: **Tony Poinelli**, representing IAC, explained that this bill repeals Section 63-2304, Idaho Code, relating to auctioneers' licenses giving counties the authority to issue such licenses through the County Treasurer's office. Licenses are seldom used because there is no oversight authority, no enforcement, and there is a separate code section regarding funds the county is allowed to charge (\$20) as an annual fee. The distribution of those small amount of funds between city, county and school districts doesn't make sense. This is an antiquated law that has been in existence for a significant number of years.

Chairman Stegner inquired if the counties have considered the loss of revenue. **Mr. Poinelli** explained that the few dollars collected are split between those districts. **Senator Hill** stated that currently this is probably not mandatory licensing; only the authority was granted to the counties to do this and now that authority is being rescinded. Is that correct? **Mr. Poinelli** replied that the law states that every auctioneer must obtain a license but it isn't being enforced.

MOTION: **Senator Hill** moved, seconded by **Senator Hammond**, to send H112 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator McGee** will carry H112 on the Senate floor.

ADJOURNMENT: **Chairman Stegner** announced that there would be a meeting on Thursday and H126, the jobs credit legislation, will be on the agenda. There being no further business the meeting was adjourned at 4:50 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 24, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for February 8, 2011	Senators Siddoway and McKenzie
	Minutes for February 9, 2011	Senators Corder and Hill
	Minutes for February 15, 2011	Senators Bilyeu and Werk
	Minutes for February 16, 2011	Senators Hammond and Bilyeu
H0126	RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES amending Section 63-3029F to revise the incentive to employers who create new jobs by allowing an employer to receive a refund of a portion of the new employees' annual withholding paid to the state.	John Watts, Veritas Advisors LLC

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 24, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:17 p.m. with a quorum present. Approval of the minutes will be held until the next meeting. **John Watts**, Veritas Advisors LLC, was invited to the podium to introduce HB126.

H126 RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES amending Section 63-3029F to revise the incentive to employers who create new jobs by allowing an employer to receive a refund of a portion of the new employees' annual withholding paid to the state. **Mr. Watts** explained that he is speaking on behalf of the Idaho Chamber Alliance. The outline for presenting the bill will be the history of the new bill, a step-by-step explanation of changes to the tax code along with the inclusion of some new concepts, and a fiscal scenario to demonstrate the viability of this proposal.

The initial concept of the jobs bill was through a series of forums conducted in the fall of 2010 throughout Idaho. Three consistent themes came from employer members of the Chambers of Commerce throughout the state: 1) Find lines of assistance for physical plants/structure; 2) Find capital/resources to take those investment risks; and, 3) Gain more confidence to hire employees to put into those facilities without jeopardizing families by hiring for a short term and then letting them go. This jobs bill was the result.

H126 does several things. It creates a 4% refundable tax credit to the employer that hires a person in a new position. If that person had a liability to the state for income tax, the employer would be able to take that refund and apply it to their liability to the state; it has a \$12.00/hour minimum; it requires the individual to be employed nine consecutive months; it requires that a health plan or accident plan be in place; and, it sunsets in three years on December 31, 2013. The purpose of the bill is to provide a "shot in the arm" to the economy, address the 70,000 Idahoans who are unemployed, and to encourage employers to take action.

Mr. Watts began his full explanation of the bill. He included several handouts of Idaho and US code for reference which are included as part of the minutes. Page 1 of the bill identifies the \$12.00/hour requirement, refers to Idaho tax code defining a taxable year and a new employee and the Internal Revenue Code defining a health or accident plan which is part of current code and is just being set up in a different part of the bill. Section I (2) of this bill sets out that there will be a credit of 4% of gross wages paid to the new employee. That credit will come from the State Refund Account. Section 3 of the bill makes it retroactive to January 1, 2011 and it sunsets on December 31, 2013.

Existing Income Tax Credit Language in Section 63-3029F(2), Idaho Code, has been struck and because of the sunset, this section will be gone forever. However, Section 2, the higher paying jobs tax credit will be retained.

Mr. Watts stated some folks have said this bill will never create a job—it may not! Some said it is what is needed—it may be! Someone said this may not tip the decision to employ somebody—but others have said it might just be what someone needs to make the investment this year instead of waiting. **Mr. Watts** provided a handout with a sample scenario showing how this would work (included in minutes). The scenario that was presented did not include the peripheral income to the state, counties, and cities generated by adding that job.

In closing, **Mr. Watts** stated that H126 is a step in the direction of creating jobs, it is a good bill. If not this bill, then what; if not now, then when? He asked the Committee to send the bill with a do pass recommendation and thanked the Committee for hearing the bill.

Vice Chairman Siddoway pointed out a miscalculation on the scenario handout. **Mr. Watts** will replace it before the next meeting.

Chairman Stegner announced that the hearing may not be completed today. The main objective is to get those who intend to testify and who are from out of the area or are unable to return to testify today.

Testimony in Support of H126:

Gynii Gilliam, Executive Director, Bannock Development Corporation - Copy of Testimony Attached. **Senator Corder** asked about statements referring to rehiring. **Ms. Gilliam** clarified her statement. If there were some small businesses that had laid off people over the last two years, this might allow them to rehire. **Senator Corder** stated that would not be a new job; what is going on in that business that \$2000 would make that employer hire someone? **Ms. Gilliam** answered that, for example, one of the local engineering firms have laid off people for lack of activity. Now there is a little more activity and with that rebate, that firm might hire one more engineer. **Senator Hill** presented a scenario using an existing floral business as the example. A new business opens and four employees move to that new business. Are you comfortable having tax dollars go to subsidize the new employer and, in addition, there will be no benefit to the existing employer when the lost employees are replaced? **Ms. Gilliam** said she would be comfortable. In a competitive situation, employers must be at their best.

Dave Romesburg, Supply Chain Manager, ATK in Lewiston, stated they currently employ 1150 employees in the production of ammunition for military and commercial markets. This bill in itself may not be the deciding factor in hiring an employee but it may be a means of incentivising an employer to retain a new employee for a longer time period. The downstream effect may be saving resources in hiring and training of new employees. ATK currently has an average 30% turnover rate; retaining employees and lowering that rate would be very beneficial. H126 reinforces the partnership between Idaho government and private business. **Chairman Stegner** asked how this credit would be used for the retention of an individual when the intention is to have more people hired than in the prior year. How can retaining employees demonstrate the increased numbers needed to qualify for the refund? **Dave Romesburg** responded that this may be a way to keep an employee for nine months versus one month.

Shawn Barigar, President and CEO, Twin Falls Area Chamber of Commerce, commented that we agree helping Idaho businesses to be successful is the key to overcoming the challenges that are facing our economy and, subsequently, the financial condition of the state.

This bill is an opportunity to provide and incentive for those businesses to add jobs. The Twin Falls Area Chamber represents about 850 businesses and organizations. Conversations with members indicated that this income tax credit would provide an incentive to them to add positions in the coming years providing job opportunities for the 70,000 Idahoans currently unemployed. **Mr. Barigar** outlined how the tax credit would help by using actual Twin Falls area businesses as examples. **Senator Corder** asked about converting part time jobs to full time jobs on the basis of a \$2000 credit. How would this credit convert those part time jobs to full time? **Mr. Barigar** said they are just that close—there is not enough business to justify the risk/expense to go full time but this could bridge that gap.

Don Dietrich, Director, Idaho Department of Commerce, stated that this legislation is a job creation incentive. It supports local companies and is a recruitment tool. It also creates a public/private partnership. Small businesses provide the vast majority of jobs across the state of Idaho. Hiring for small businesses is a challenge in the best and worst of times. Companies across the state want to engage in growing the economy and this incentive helps eliminate some of the guesswork by reducing the tax burden. The sunset provides the motivation to hire now. Supporting this legislation provides one more incentive tool to attract new companies. We have asked business partners across the state to hire one more employee. It is time to show we are serious about getting our 70,000 unemployed back to work.

Jay Engstrom, Idaho Department of Labor on behalf of **Roger Madsen**, Director, Idaho Department of Labor, presented Mr. Madsen's letter to the Committee (included as part of the minutes). **Chairman Stegner** questioned the term "employer-assisted benefits" which is existing language in current statute. Describe what "under an accident or health care plan" means in terms of employer-assisted benefits. **Mr. Engstrom** explained that the wording comes from the Workforce Development Training Plan. There is a common definition for an employee benefit plan but it is not an accident plan. **Senator Corder** asked if this would be workers compensation **Mr. Engstrom** responded that what is referred to here must be a program paid by the employer. **Senator Hill** stated that **Dan John**, Idaho State Tax Commission, could answer that question because it is the plan defined under Section 105, Internal Revenue Code. **Mr. John** said that 105 is defined as plans that are not included in the employees income but paid by the employer. There are other sections that will further define this and those can be provided at the next hearing on this bill. **Chairman Stegner** asked Mr. John if, when the jobs bill went back into effect, was it discussed whether or not an employer could have an accident plan that really had little value. **Mr. John** said he couldn't recall.

Senator Hill asked what would qualify as "employer coverage." **Mr. John** responded that the interpretation has always been that if the employer makes it available and pays at least a portion it would qualify. **Chairman Stegner** inquired if the Tax Commission was prepared to verify all these coverages. What would be the verification process? **Mr. John** said that verification would be during an audit. **Senator Werk** pursued the question asking about a 1% participation by the employer. **Mr. John** offered to pull the rules to confirm exactly what they called for. **Senator Werk** asked Mr. Engstrom if this would provide a living wage. **Mr. Engstrom** said that was a subjective amount and he will get an answer for the Committee. **Senator Werk** referred to Mr. Madsen's reference to the training assistance fund with an average of \$19/hour but still supports the \$12/hour minimum which could be jobs for 20 hours/week. Is there a disconnect between the higher wage and the requirement for benefits at a much lower pay range? **Mr. Engstrom** stated that the Workforce Development Training Fund jobs have to be over \$12/hour with employer assisted health care benefits. Salaries have been much higher than the minimum and seem to be slowly going up.

Elwood Kleaver, Boise Valley Economic Partnership (BVEP), agrees with those who have already testified and commented that the act has some value with larger companies that might be considering an expansion and whether or not to expand in Idaho or some other state. This legislation alone would not be the deciding factor, but it is an incentive that could help them make a decision. **Senator Werk** asked if this would be beneficial for any particular sector of the economy. **Mr. Kleaver** answered that they have not polled any BVEP members as to how many jobs it would create.

Mark Warbis, Senior Special Assistant for Energy and Economic Development and Communications Director, Governor's Office, acknowledged that this legislation alone might not create a single job. There are other steps that could make a more profound difference like eliminating personal property tax. H126 represents the state government's commitment to, and our stake in, the serious business of creating an environment in which employers are rewarded for showing confidence in Idaho's economy. Citizens are saying jobs are the most important issue right now; the high unemployment rate and the 70,000+ Idahoans out of work make that clear. Employers need to invest in Idaho and they need to be shown that government understands that times are difficult and uncertain but that we are in this together and depend on one another to recover and prosper. In Governor Otter's State of the State Address, he encouraged every Idaho employer who can, to hire one more employee as a way to reduce joblessness.

Mike Reynoldson, Governmental Affairs Manager, Micron Technology, stated that this bill could be one tool to help keep costs down and allow us to be competitive with foreign manufacturers. **Chairman Stegner** asked how many employees Micron has in Idaho and are there any projections for growth over the next 12 months. **Mr. Reynoldson** said they currently employ 5000+ employees and he could not answer to any projections. **Chairman Stegner** stated that any growth over that of prior years totals would qualify a company to collect the refund. What is the difference between this being an incentive or being a bonus although bonus' aren't bad—where does the incentive come in? **Mr. Reynoldson** thinks there will be some growth. Bringing down costs is a major priority particularly with what they are seeing with the competition so every dollar helps.

Alex LaBeau, President, Idaho Association of Commerce and Industry, added a couple of clarifications for H126. Multinational companies that want to expand operations must make determinations on a variety of factors one of which is labor costs. The way it works within these companies is that the local entity goes to corporate and competes with other incompany entities with their resources. This is just one additional tool they would be able to use.

Douglas Sayer, President & CEO, Premier Technology, Inc. and **Ronald Nilson**, President & CEO, Ground Force Manufacturing, submitted written testimony in support of H126.

ADJOURNMENT: **Chairman Stegner** prepared to adjourn the meeting. This will close out public testimony and H126 will be the first item on the agenda for Tuesday, March 1st at 3:00 p.m. for Committee discussion and close by the sponsor. Being no further business, the meeting was adjourned at 4:30 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for February 8, 2011	Senators Siddoway and McKenzie
	Minutes for February 9, 2011	Senators Corder and Hill
	Minutes for February 15, 2011	Senators Bilyeu and Werk
	Minutes for February 16, 2011	Senators Hammond and Bilyeu
H0126	RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES amending Section 63-3029F to revise the incentive to employers who create new jobs by allowing an employer to receive a refund of a portion of the new employees' annual withholding paid to the state.	John Watts, Veritas Advisors LLC

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 01, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:01 p.m. with a quorum present. Minutes were approved as follows:

MOTION: **Vice Chairman Siddoway** moved, seconded by **Senator McKenzie**, to accept the February 8, 2011 minutes as written. The motion carried by voice vote.

MOTION: **Senator Corder** moved, seconded by **Senator Hill**, to accept the February 9, 2011 minutes as written. The motion carried by voice vote.

MOTION: **Senator Werk** moved, seconded by **Senator Bilyeu**, to accept the February 15, 2011 minutes as corrected. The motion carried by voice vote.

MOTION: **Senator Hammond** moved, seconded by **Senator Bilyeu**, to accept the February 16, 2011 minutes as written. The motion carried by voice vote.

H126 (cont.) RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES amending Section 63-3029F to revise the incentive to employers who create new jobs by allowing an employer to receive a refund of a portion of the new employees' annual withholding paid to the state.

Chairman Stegner said that H126 is before the Committee and there will not be any further public testimony. **Roger Madsen**, Department of Labor, was unable to attend the last meeting during the testimony period, was invited to address the Committee.

Mr. Madsen stated that a few years ago, Idaho had the lowest unemployment rate in the country. Since then, we have had the highest percent of increase in unemployment; 180%. It has been very difficult for the legislature, governor, commerce and labor, chambers, corporations, and the unemployed themselves. Currently there are 120,000 Idahoans listed with the agency that are actively looking for work, many who are highly educated and trained. There is good news in the state. This incentive would be extremely helpful for businesses and those who are seeking work. It sunsets in 2013, if it doesn't work, it won't be renewed. Just give it a chance.

John Watts, Veritas Advisors LLC, recapped discussions from the last meeting. H126 is 4% of gross wages refundable tax credit taken by the individual if they do not have a liability. The new employee has to work a minimum of nine months in any taxable year. There is a minimum of \$12/hour, with at least 20 hours or more. The individual must receive a health or accident plan provided by the employer. It is retroactive to January 1, 2011 and sunsets in three years. There are several statutes on the books that are incorporated into this proposal that: 1) Includes the permanent building fund that everyone has to pay; 2) Provides a definition of a

new employee; 3) Includes a portion of the IRS code that spells out the health and accident requirement; and, 4) Cites the law addressing how the state refund capital funds are processed and compares that to where the employee withholding would go as the result of a new job. Section II, will remain unchanged. **Mr. Watts** revisited the corrected scenario from the previous meeting.

Senator Hammond asked if the \$12/hour minimum wage was inclusive or exclusive of the health care benefit. **Mr. Watts** noted that it is exclusive.

Senator Corder posed the question; Did workers' compensation qualify as accident coverage in this language? **Mr. Watts** referred to the IRS code 105. **Senator Corder** responded that, yes, it could be workers' compensation. **Senator Bilyeu** asked if the requirement was a health and accident plan or was it health or accident plan? **Mr. Watts** referenced page 1, line 21; "\$12 or more per hour and received employer provided coverage," so it would be "and." **Senator Bilyeu** stated that the language is "provides coverage for an accident or health plan," so it could be just workers' compensation. **Mr. Watts** deferred that question to Dan John, Idaho State Tax Commission (ISTC). The ISTC already administers that language in current code.

Senator Bilyeu quoted the bill as saying "a new employee," it does not say a new job. This is not necessarily addressing a new job, it is a new employee. **Mr. Watts** referenced Section 63-3029F(ii) for a description of new employee and then went to the new language on page 1, lines 16-18 that speaks to the increase in employees for either the prior taxable year or an average of three years, whichever is higher—it must be a new employee. **Senator Bilyeu** restated her question indicating that a new employee could be taking an existing job which would not be an additional job. **Mr. Watts** answered that the language in the bill on page 1, line 16-18, that new employee must increase as previously stated. It has to be something new by definition.

Senator Bilyeu asked if the fiscal impact was still unknown. **Chairman Stegner** stated that it had not been a significant issue in discussions so far. **Mr. Watts** referred to the most recent handout showing a scenario that explains that, in this case, the fiscal impact would be neutral (included with minutes). It is unknown what types of jobs this would apply to and what salary ranges those jobs would have. There would also be secondary factors that would impact the general fund that are not shown here.

Chairman Stegner remarked on the matter of the fiscal impact. The Statement of Purpose states that "any funds returned to the employer will come from the state refund account where employee income tax withholdings are deposited." That could suggest that there isn't an impact to the state because it is returning money the employer has deducted and paid on behalf of the employee. Is that the interpretation? **Mr. Watts** responded that yes, that when the 4% is applied to the withholdings that are deposited on behalf of the employee, there is a good possibility that there will be a neutral point. There are many factors that drive the outcome of the fiscal note.

Mr. John said that this bill requires that the employee actually receive employer provided health or accident coverage. The prior law, which will be stricken, only required that they be made available. Rules will have to be written to define what receive means and to what extent the employer will have to contribute to the plan. **Chairman Stegner** stated that the term accident plan is a prescribed plan and it has been suggested here that a workers' compensation plan would qualify. What is your opinion? **Mr. John** responded that workers' compensation would not qualify. These are plans described in the IRC. The employer must make payments or reimbursements and the employee does not have to include that amount in reported income.

Senator Hill drew attention to Section 63-3029E(1) regarding the minimum nine month employment requirement. Does that mean the nine months must fall in a calendar year and cannot be split between two different years? **Mr. John** answered that was correct.

Senator Bilyeu asked if Mr. John had any input on the fiscal note. **Mr. John** said the fiscal note comes from the sponsor.

Chairman Stegner explained another viewpoint when calculating a fiscal impact as outlined in the "Idaho Job Growth Estimate - 2011" handout. The basis for those calculations was from a report created by the Idaho Department of Labor entitled "Covered Employment Growth Trends and Average Annual Wages by Industry" which provided projected employment and employment growth rates (both are included as part of minutes). This isn't an exact amount, it is an estimate of what could be a significant impact on the state of Idaho when considering this type of legislation. **Chairman Stegner** rejects the idea that when the bonus is paid out of the withholding fund, that there is no cost to the state. There is a cost to implement a plan such as this. Experience has taught that this does not create jobs, it is a bonus bill that rewards the creation of a job. There is no incentive to cause an employer to hire an employee—the refund doesn't come until after the fact. Employers are not going to hire someone because they will get 4% of the value of the wage paid. If this is considered a bonus, why is it only for this particular class of employers? Why aren't employers who have kept people on a payroll during the recession rewarded? Don't they deserve some consideration/recognition from the state for the value of their efforts during these times? The bill is open for committee discussion.

Vice Chairman Siddoway stated that the original chart didn't look right but the second corrected one made more sense. The Governor has asked every business to try and hire one more employee if possible. This incentive doesn't go far enough to make a difference. He wants to support a meaningful jobs bill that will reach the small mom and pop businesses that create most of the jobs in this state. He has reservations about H126.

Senator Hill agrees with the Chairman that the fiscal note is very disappointing. However, this bill has some redeeming factors. This is a rewards bill which is not all bad when rewarding employers that help get the economy going again; it is a recruitment tool to encourage expansion and new business; and, it is one more thing to show that Idaho is a business friendly state. Employers should not hire someone just to get the 4% credit but this might be enough incentive for an employer to hire someone and provide health insurance that otherwise wouldn't be provided. That could have significant savings to the state. Although the 4% is not sufficient to cause someone to hire another employee, it may be sufficient for someone to hire someone and have help in providing insurance coverage. That is an important factor. In addition, it does have a sunset.

Senator Hammond noted that last year District 5 legislators met with local businessmen in Kootenai County and one point discussed was what the state could do to help them during these challenging financial times. During the first six months until fully trained, a new employee is more costly than beneficial. If there is anything that can be done to offset the cost of those new employees, it would be helpful and would provide more motivation to hire new employees because the cost would be reduced. That needs to be considered. In the economic development arena, any time a tool can be added to be competitive it is always helpful.

Senator Corder noted that even if there is an incentive, a job cannot be created but it might encourage someone to hire an employee. In the 80's there was an effort to social engineer benefits through taxation and that added a cost of doing business that couldn't be sustained. That could be a real threat with this legislation. Adding

people even though business isn't there to gain the 4%, which wouldn't begin to cover their health or accident coverage, would result in a net loss. There are two things that are troublesome; rewards and recruitment. Where is the reward to those who have made it through this economy by using cash reserves and who have asked for nothing more than to continue to conduct their business. There is a certain intolerance when the government tries to recruit competition and then reward them because they have found a niche. That consideration should be for those existing businesses who will survive by keeping on doing what they have to do. Let us compete and don't artificially set up a competitor.

MOTION: **Senator McGee** moved, seconded by **Senator Hill**, to send H126 to the Senate floor with a do pass recommendation.

Senator McGee noted that this will be a close vote and it is an important discussion to have. When discussions about stimulating the economy occurred within the board of the Chamber of Commerce while he was a member, these types of incentives were talked about. It is not a perfect bill but there are two general thoughts to consider; we no longer have an economy and live in a world competing with our neighbors, we are competing internationally through technology. Although Idaho is a wonderful place to live, it is not enough by itself to attract business to the state. Right now the employment rate is high, this bill can, potentially, help stimulate jobs across the state and in local communities and he will be voting aye.

Senator Werk stated that the testimony has been helpful and he is in agreement with some of Senator McGee's points. There is a place to help stimulate the economy if it can be done in a way to get the right kind of jobs and provide a guaranteed benefit for the state especially at a time of budget difficulties. The problem is that this piece of legislation is lacking that guarantee. The idea of giving a job incentive for a \$12/hour part time job using the capital of the state to do so, is not right. The questions about the employer provided health or accident coverage is another problem. The intention of the legislation is appreciated but he won't be able to support it.

VOTE: Roll call vote showed four ayes and five nays. The motion failed.
Ayes: Hill, McKenzie, McGee, and Hammond
Nays: Stegner, Siddoway, Corder, Werk, and Bilyeu

ADJOURNMENT: There being no further business, the meeting adjourned at 3:55 p.m. until Wednesday, March 2nd.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 02, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H0113</u>	RELATING TO PROPERTY TAX to amend procedures by removing the Board of County Commissioners from the review and approval of individuals that would qualify for the Circuit Breaker Property Tax Reduction Program.	Tony Poinelli, Idaho Association of Counties
<u>H0148</u>	RELATING TO LOCAL LAND USE PLANNING is to ensure that zoning ordeinances are not in conflict with a comprehensive plan; promote compatibility among land uses; provides that an analysis of the role of agriculture is included in the plan; and, encourages posting notices of public hearings for special use permit applications on the government's official website if one is available.	Roger Batt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton

Room: WW50

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 02, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 3:06 p.m. with a quorum present. The first order of business was H113 presented by **Tony Poinelli**, representing Idaho Association of Counties (IAC).

H113 RELATING TO PROPERTY TAX to amend procedures by removing the Board of County Commissioners from the review and approval of individuals that would qualify for the Circuit Breaker Property Tax Reduction Program. **Mr. Poinelli** explained that the intent of the bill is to take the county commissions out of the middle of this process. When someone applies for the circuit breaker benefit, the application is made through the assessor's office or other county office. It will then go to the Board of County Commissioners who, in turn sends the application with a recommendation to the Idaho State Tax Commission (ISTC). The ISTC reviews that application and makes the final decision as to whether the application is approved or not. With this bill, since the ISTC makes the final decision, the Board of County Commissioners will be taken out of the process. Applications will continue to come in at the county level and they will help individuals complete the form and forward it to the ISTC for final consideration as they are currently doing. The time frame for an appeal is being extended from 14 to 28 days. There is approximately 28,000 applications approved annually at about \$16.0 million.

Senator Corder asked what kind of reasons would the ISTC have for overturning a county recommendation. **Mr. Poinelli** replied that the individual may be over income, they may have filed in two different counties, or any number of practical reasons why they might not qualify.

Senator Hammond asked if the change is in agreement with the ISTC. **Mr. Poinelli** responded yes.

Senator McKenzie inquired if the ISTC currently reviews all 28,000 applications. **Mr. Poinelli** said they do. **Dan John**, ISTC, confirmed that they check every one. **Senator McKenzie** commented that if this were a function where the ISTC only reviewed those applications that are disgruntled with the decision of the commissioners, that would be one thing but where they are already reviewing every single one of those 28,000 applications and apparently have the staff and means to do that, I agree with the fiscal note and it doesn't seem like we are adding to their burden. **Chairman Stegner** noted that there would be significant savings in time and effort to the counties.

Senator Bilyeu stated that taking those applications was the assessor's responsibility. Why would other county offices do that? **Mr. Poinelli** said that there are some county treasurer's offices that do this as well but it is primarily the assessor's job. **Senator Bilyeu** commented that it may not save county offices that much because all they did was send a list of applicants and document that they had signed the application. Resources were not available to check into income etc.

MOTION:

Senator Corder moved, seconded by **Senator Bilyeu**, to send H113 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator Bilyeu** will carry H113 on the Senate floor.

Chairman Stegner introduced **Roger Batt** to explain H148.

H148

RELATING TO LOCAL LAND USE PLANNING to ensure that zoning ordinances are not in conflict with a comprehensive plan. **Roger Batt**, Coalition for Agriculture's Future which is made up of farmers, ranchers, dairyman, and other agri business associates, said that over the past year the agri organizations addressed issues on how to reduce conflict that exist between agricultural operations and folks moving to the country who do not understand the practices associated with agri businesses. They studied the statutes related to land use to assist in working toward a solution. H138 is a direct result of that study by recognizing that agriculture is a land use as part of the Land Use Planning Act along with the recognition that agriculture provides economic benefits to a community. "Compatibility of land uses" has been added as part of Section 67-6508. Agriculture has been added as a component and part of a Comprehensive Land Use Plan. Changes to zoning ordinances will be analyzed to ensure they are not in conflict with the policies of the adopted comprehensive plan. Local governments are encouraged to provide more transparency when granting special use permits. This legislation is supported by Idaho cities and counties and the real estate board as well as other organizations related to the agri industry.

Senator Hammond spoke to the language on page 5, lines 1-3 which talks about the policies involved with the comprehensive plan. A comprehensive plan is a general guide. It is not actually zoning but it overlays the zoning. In this context it is not really a policy. Do you see this as a problem for administration by using that wording? **Mr. Batt** responded that legal council reviewed the language and the word "policies" was used because it was different from "goals and objectives" which is used in the comprehensive plan. **Senator Hammond** stated that it makes sense to have this as part of the comprehensive plan particularly in regard to a conflict.

Senator McKenzie commented that the planning and zoning people should be analyzing any ordinance to identify conflicts. How does this change the requirements they have and any potential appeals of those decisions? **Mr. Batt** doesn't believe they are doing that. Current law says that if the governing board finds that a request is in conflict with the adopted plan, they may require the request to be submitted to the planning and zoning commission. The governing body isn't analyzing any requests.

Kent Lauer, Governmental Affairs Director, Idaho Farm Bureau Federation, testified in support of H148. They have worked closely with Mr. Batt on this bill and they do support the bill.

MOTION:

Senator Hammond moved, seconded by **Senator Hill**, to send H148 to the Senate floor with a do pass recommendation.

Senator McKenzie noted that he didn't see any opposition to this legislation from any party including those practicing land use planning. He approves of the policy that is being put in place and the analysis that is required makes sense taking into account agricultural interests as well as the economic benefits.

The motion carried by voice vote. **Senator Hammond** will carry H148 on the Senate floor.

ADJOURNMENT: **Chairman Stegner** announced there would not be a meeting on Thursday. There being no further business, the meeting was adjourned at 3:28 p.m. until Tuesday, March 8th.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 08, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>S1129</u>	RELATING TO THE LOCAL GOVERNMENT INVESTMENT POOL allows the State Treasurer to continue operating the Local Government Investment Pool and clarifies that the State Treasurer will adhere to restrictions governing the State Treasurer that will be of assistance when making investments and working with local officials.	Ron Crane, State Treasurer
<u>H0178</u>	RELATED TO THE ISSUANCE OF REVENUE BONDS BY POLITICAL SUBDIVISIONS to update provisions of the Revenue Bond Act to conform the the provisions approved by the voters at the 2010 general election.	Senator Stegner

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 08, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:03 p.m. with a quorum present. The first order of business was S1129 and he welcomed Ron Crane to present the bill.

S1129 RELATING TO THE LOCAL GOVERNMENT INVESTMENT POOL, Ron Crane, State Treasurer, explained that the State Treasurer's Office has operated the Local Government Investment Pool (LGIP) for many years. The LGIP has 600 pool members around the state consisting of cities, counties, and school districts – all those are local taxing districts that do not have the time or expertise to do their own investing and so they participate in the State Treasurer's Office Pool. They are allowed to join at will and opt out when needed and they earn interest for the time they participate. The cost to them is determined by the number of pool members divided into the actual cost of operating this division of the Treasurer's Office. There are two funds within the LGIP. one is the short term fund which currently has \$1,283,372,000, earning .2756%. There is also a diversified 2-year bond fund; that fund has \$32.0 million yielding 2.2%. It would be easier for the Treasurer's Office if there was an actual statement in code that defines their authority to invest those funds.

Chairman Stegner stated this is simply codifying what has been occurring. How long has this been in effect? **Mr. Crane** answered - 30 years

Vice Chairman Siddoway asked for the formula used for the cost per member. Is it the members of the pool and not a pro rata basis of the members investment? **Mr. Crane** responded that it is both; 1) dividing the cost by the number of members, and, 2) a charge based on the size of the member's investment.

MOTION: **Senator Hill** moved, seconded by **Senator Werk**, to send S1129 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator Werk** will carry the bill on the Senate floor.

Chairman Stegner relinquished the gavel to **Vice Chairman Siddoway** to present the next bill.

H0178 RELATED TO THE ISSUANCE OF REVENUE BONDS BY POLITICAL SUBDIVISIONS, Chairman Stegner introduced H178 dealing with codifying the constitutional amendments related to Article 8, Section 3 that were passed in the general election in 2010. There are areas in the code that need to be updated because of the change in the constitution to make code consistent with the constitution. The changes deal with Title 50 - Municipal Corporations. Amendments

in Section 1, the definition section, adds "airport facilities and air navigation, and electric systems," and provides full definitions for those terms. There is also added code and definitions for electric generation transmission and distribution facilities since they are only identified in the constitutional amendment as an "electric system."

There is an added subsection to Section 2 dealing with bonding authorities for airport facilities and air navigation facilities. The next change is in Section 3 dealing with ordinances for construction and election of facilities dealing with electrical systems as well as airport authorities addressing the language that is in the constitutional amendments for constructing those facilities. The last area is in Section 4, the Lien of Bonds. If there are bonds issued, they do not encumber the taxpayer in any way, they are paid back with the proceeds from the endeavors of the facility.

This is simply a codification bill and is consistent with the constitutional amendments. This deals with two of the three areas that were voted on; airport facilities and air navigation facilities, and electrical facilities. There is one more amendment addressing hospitals that will be coming from the body across the rotunda.

Vice Chairman Siddoway asked if there was anyone who wished to testify regarding H0178.

Ken Harward, Association of Idaho Cities, testified in support of this bill.

MOTION:

Senator McGee moved, seconded by **Senator Corder**, to send H0178 to the Senate floor with a do pass recommendation.

Vice Chairman Siddoway returned the gavel to the Chairman.

ADJOURNMENT: **Chairman Stegner** stated that this completes today's work and there is some on the agenda for tomorrow. The plan is to take up the Urban Renewal District bill(s) on Tuesday next week. There being no further business, the Committee was adjourned at 3:20 p.m. until Wednesday, March 9th at 3:00 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 09, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H115</u>	RELATING TO ENFORCING EXECUTION OF PLATS to clarify and streamline procedures related to the enforced execution of a plat for a parcel of land. To provide instruction for the county recorder, to permit billing of property owners and to provide for payment when not paid as requested and to revise how the assessment will be collected and where those monies will go.	Representative Donna Pence
<u>H174</u>	RELATING TO THE ABANDONMENT OF INTERESTS IN AND PROCEEDS FROM BUSINESS ASSOCIATIONS to connect Idaho citizens with their lost/forgotten property by to require entities and individuals to notify the unclaimed property office when the holder of property cannot locate the owner. This also clarifies that the period of abandonment for business associations is five (5) years.	Ron Crane, State Treasurer
<u>H175</u>	RELATING TO UNCLAIMED PROPERTY LAW providing technical corrections to two provisions within this law by removing a subsection related to inheritance tax because Idaho no longer has inheritance tax. It also correctly identifies a cross reference.	Ron Crane, State Treasurer

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 09, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:05 p.m. with a quorum present. He introduced **Representative Donna Pence** to present H0115.

H0115

RELATING TO THE EXECUTION OF FORCED PLATS, Representative Pence explained that a forced plat occurs when a county clerk is notified by an assessor or anyone else, that a subdivision plan has not been platted as required in Title 50, Chapter 13, Idaho Code. In that case, a parcel description is in question which could cause issues with evaluations for tax purposes, transfer of ownership, or building permit applications. Idaho statute allows for a maximum of five parcel splits before platting is necessary although some county ordinances can require less than the five. If the owner of the land does not take responsibility for the platting, the clerk must execute a plat at the county expense as set out in current statute.

The major change outlined in this bill adds the Board of County Commissioners as part of the process. The clerk places the issue before the commissioners so they can evaluate the circumstances and determine if it is necessary to force the plat. Current statute already provides that the county can recover those costs. Currently, that cost is added as a special charge to the tax bill. H0115 allows the landowner to be billed, allowing the opportunity to remit payment to the county before it is placed on the tax notice. In both cases, any funds that are collected will be deposited into the county current expense fund to offset the actual costs.

A forced plat is rare; only nine counties have had any experience with it. When it does happen, it is onerous for the clerk and those involved. The amendments contained in this bill do not alter the platting process, they simply provide the clerks clear direction from the county commissioners who are the ultimate land use decision makers. **Representative Pence** commented about the narrow margin by which this bill passed in the House. The concern was about the property tax rolls for the county. That part of the statute is not being addressed in this bill. She asked for the Committee's support for H0115.

Chairman Stegner stated that currently, the recorder has the authority to initiate the process but there is no public review. This bill puts that responsibility on the county commissioners then it becomes an agenda item and, therefore, a public process that allows more transparency. **Representative Pence** agreed. Current statute says that anyone can initiate the process. Making it public will help—there will be no surprises.

Senator Bilyeu stated that when the owner has not paid for the platting, then the county can put it on the tax notice. The only way it could affect taxes would be if it were to go on the assessment roll. If it increases from one parcel to five, it could change those values. If the landowner is the one requesting the platting, they would probably know that. **Representative Pence** responded that procedures are not changing from current statute except to add the billing option.

Senator Corder asked if the House's objection was, if the expenses were placed in the expense account, would it add to the 3% calculation? Are you aware of any such provision? **Representative Pence** said that if it wasn't going into that particular expense account, then it might be a problem if a different account was used to make that determination. But it is already being done, it is already in statute, this bill is not changing that process. It is not new, it is not a part of current law that is being changed.

Vice Chairman Siddoway wasn't sure when and how this event would happen and why the perpetrator is not the one held liable. Can you differentiate between current law and the provisions in H0115? It seems the only provisions changing here is adding the county commissioners to the process and make it public.

Representative Pence deferred the question to **Abbie Mace**.

Abbie Mace, County Clerk-Fremont County and representing Idaho Association of Counties, was asked to represent the counties because she had been through a forced plat. Discussions between the commissioners, clerks, and assessors' association concluded that it would be in the best interest of the public if this procedure was handled by the county commissioners. The county clerk/recorder is the record keeper of the county. The county commissioners are the administrators of the county and so this is part of their realm.

Today, there has been a lot of questions asked about the budget and how it affects the budget. This is budget neutral. The current expense fund and general fund are the exact same fund – they are one and the same. This is just a mechanism to recoup the costs for doing a forced plat. The law now allows a county treasurer to place a special charge on the property tax bill. It does nothing with the value of the property. There have been nine to eleven forced plats done over the years so it is very rare. Usually these situations are discovered when someone goes to the zoning department and requests a building permit and it is denied because the property hasn't been platted properly. Regarding the question of who has to pay, that is where the county commissioners get involved as administrators.

Chairman Stegner observed that this situation is rare because it normally comes up much earlier in the process. A developer runs into the problem very early but it could happen when the requirements for dividing property are ignored, i.e. a family situation, and then an outsider wants to purchase one of the properties.

Ms. Mace agreed. When someone new enters the picture, there is a problem. In addition, there are problems that forced plats won't fix that are not addressed in this legislation. It doesn't fix the road issues or the right-of-way issues; it only says it has been platted and that these parcels have been divided. It doesn't guarantee building permits can be issued, it only ratifies what has happened and it is now platted the way it was divided.

Senator Hill said this seems to be giving the property owners another option. Before they were billed as part of the property tax assessment. All this is saying is that they can be billed and pay for the cost immediately or they can be billed on their property tax bill as it has always been done. **Ms. Mace** concurred.

Representative Pence gave her closing comments.

MOTION: **Senator Hammond** moved, seconded by **Senator Hill**, to send H0115 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator Hammond** will carry H0115 on the Senate floor.

H0174 RELATING TO THE ABANDONMENT OF INTERESTS IN AND PROCEEDS FROM BUSINESS ASSOCIATIONS, **Ron Crane**, State Treasurer, explained that the Unclaimed Property Division (Division) was moved from the Tax Commission to the Treasurer's Office last year. The state has a vested interest in reconnecting abandoned or unclaimed property with the rightful owner. Today \$60.0 million is being held in trust for citizens of Idaho plus 516,000 properties. In July, 2010, it was taking an average of 180 days to process a claim; as of today, the average is 142 days. There are loopholes in the laws as it relates to the reporting of unclaimed securities to the Division. Current law reads that when a company holding a security in someone's name is unable to locate the owner of that stock, they must make at least five dividend payments before reporting it to the Division. If those distributions are not made, it never has to be reported. In an effort to close that loophole, this bill requires them to report to the Division within the required time frame whether or not a dividend payment has been made.

Senator Hill asked what the penalty was for a business entity to not comply. **Mr. Crane** deferred to **Cozette Walters-Swanson**, Director, Unclaimed Property Division. **Ms. Swanson** answered that all businesses are required to report unclaimed property after a certain period of time. The statute provides authority to the Division to establish penalties and to require an audit.

Chairman Stegner inquired if there was an audit staff before the change to the Treasurer's Office. **Ms. Swanson** answered that the auditors at the Tax Commission performed those audits.

MOTION: **Vice Chairman Siddoway** moved, seconded by **Senator McGee**, to send H0174 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Vice Chairman Siddoway** will carry H0174 on the Senate floor.

H0175 RELATING TO UNCLAIMED PROPERTY LAW, **Mr. Crane** explained that this is a technical correction to remove references to the inheritance tax since it no longer exists in Idaho and makes corrections to identify some cross references.

MOTION: **Senator Corder** moved, seconded by **Senator McGee**, to send H0175 to the Senate floor with the recommendation it be sent to the Consent Calendar. The motion carried by voice vote. **Senator McGee** will carry H0175 on the Senate floor.

ADJOURNMENT: **Chairman Stegner** announced that there would not be a meeting on Thursday. Two urban renewal bills will be on the agenda for Tuesday. There being no further business, the meeting adjourned at 3:40 p.m. until Tuesday, March 15th.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
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MINUTES:

[H0095](#)

RELATING TO URBAN RENEWAL requiring that an Urban Renewal District be created by a majority of voters in a citywide election; provides for removal of board members for misconduct; provides that the board can fill a vacant position by majority vote; provides for appointment of a chairman or vice chairman; increases time for public comment from 30 to 60 days; limits bond term to 20 years; prohibits districts from expanding by annexation; requires agriculture land owners to provide written consent before being included in an Urban Renewal District.

Representative Mike Moyle

[H0110](#)

RELATING TO URBAN RENEWAL adding a public hearing to the process of establishing an Urban Renewal Project.

Representative Vito Barbieri

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner

Vice Chair Siddoway

Sen Hill

Sen McKenzie

Sen Corder

Sen McGee

Sen Hammond

Sen Werk

Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 15, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:11 p.m. with a quorum present. He introduced Scott Turlington to explain H095aa.

H095aa

RELATING TO URBAN RENEWAL requiring that an Urban Renewal District be created by a majority of voters in a city-wide election; provides for removal of board members for misconduct; provides that the board can fill a vacant position by majority vote; provides for appointment of a chairman or vice chairman; increases time for public comment from 30 to 60 days; limits bond term to 20 years; prohibits districts from expanding by annexation; requires agriculture land owners to provide written consent before being included in an urban renewal district.

Scott Turlington represents the Meridian Development Corporation, the urban renewal agency for the City of Meridian. After last session, discussions among interested parties ensued regarding urban renewal agencies and powers. This bill is the result of those efforts and the legislation addresses, in part, the creation of urban renewal agencies. Currently the creation of those agencies lies with the city councils or county commissioners. This bill requires a city-wide or county-wide election to approve the creation of an urban renewal agency.

Current provisions allow a commissioner to be removed for neglect of duty or misconduct by a majority vote of the board and/or by the local governing body then those positions would be filled by the mayor. H095aa proposes that those vacant positions be filled by the board. Also, an increase from 30 to 60 days is being made in the length of time allowed for public comment following the election and creation of the agency. The bill also addresses the maximum term for bonds. The length of time for a bond is being reduced from 24 years to 20 years. In addition, annexation to an existing district will not be allowed. The addition of agricultural or forestry lands may be included in an urban renewal district with the written consent of the landowner.

Senator Bilyeu asked for the definition of "hearing" as it relates to the proposed urban renewal project. **Mr. Turlington** explained that under this legislation the plan will be subject to a 60 day comment period conducted by a body that is authorized to hold hearings on these issues. **Senator Bilyeu** queried "if an agency had an open house with maps around the room, would that be considered a hearing?" **Mr. Turlington** answered that any hearing would have to comply with Idaho's open meeting laws. **Chairman Stegner** pointed out that the language in the legislation specifically addresses "hearing." However, sometimes there may be a presentation

of information that doesn't follow the normal format for a hearing. Is "hearing" defined somewhere else in code that could be applied here? **Mr. Turlington** responded that he didn't know of any such definition but referred to page 3, lines 6-8 "public meeting to report these findings and take comments from the public" and page 5, lines 46-48 where it talks about 60 days for comments. **Chairman Stegner** added that the language goes on to say "and take comments from the public." That answers the questions.

Senator Corder asked for further explanation on the addition of the forestry operation and what is intended by "operation?" Why is this included? **Mr. Turlington** responded that this is about agricultural lands specifically but forestry was included with the legislation to ensure that if there were forestry operations and/or forestry lands, the landowner should consent, for clarity purposes, before that forestry operation was included in the urban renewal district.

Senator Bilyeu inquired about the 20 year life for the project and when and under what circumstances can that be extended. **Mr. Turlington** said it is currently 24 years and this will reduce it to 20 years which is consistent with other municipal bonds and private bonds throughout the market place. Extensions could be allowed in the event of a default; there are other examples but in all cases the extension cannot be greater than 24 years. **Senator Bilyeu** asked if this legislation affects those projects that are already in existence. **Mr. Turlington** answered that, based on Meridian Development Corporation's understanding, this does not impact existing projects. It is a "go forward" basis unless the legislation is amended. The July 1, 2011 date is their terms recognizing there is some debate about that issue.

Senator Corder noted that even though there have been conversations about whether this legislation does or does not allow preexisting districts to continue to operate, the language would lend itself to multiple interpretations. **Mr. Turlington** agreed. There are arguments on both sides.

Chairman Stegner thanked Mr. Turlington for his explanation. There will be a chance to close at the end of public testimony. Several people have signed up to testify. Copies of the proposed amendments are available for the audience. Discussions will continue tomorrow if we are not finished today. **Chairman Stegner** said testimony will be alternated between the pros and cons for H095aa.

Testimony in Support of:

Ron Swearingen, Consultant, Mountain Home Urban Renewal Agency, stated that, even though not perfect, the changes made in the bill have helped. The inability to amend boundaries is a major concern. If this bill passes as is, it would not be possible to amend a boundary. **Mr. Swearingen** talked about a success story for a project using their urban renewal agency and also about a current situation in Mt. Home that would be negatively affected by this legislation. When an urban renewal agency is established it is difficult to see 8-10 years in advance; there should be, along with some control over random amendments, reasonable amendments allowed with public hearings and accountability. This would be good for the community and good for the agency. **Mr. Swearingen** encouraged the Committee to do what it can to keep urban renewal healthy because it has been good for the state of Idaho.

Max Vaughn, Minidoka County Assessor and representing Idaho Association of Counties, stated that H095aa addresses some of the concerns and issues counties have expressed about accountability and oversight for urban renewal. These amendments will have a positive impact on the implementation and operation of urban renewal agencies.

Mr. Vaughn addressed some previous comments on the 24 year and 30 year bond issue. Title 50, Chapter 29(1), Idaho Code, covers the maturity date of any bonds to provide funds for a specific project. That was put into place specifically for the Ada County Courthouse Complex. The 24 years was a negotiated amount of time and the 30 years was added for a specific project. Regarding annexation, there are two separate imperatives for boundaries within the urban renewal laws and statutes. There is the agency itself that defines the area in which the agency operates and it can be operated without a revenue allocation area. A specified revenue allocation area can be created to use tax increment financing. A project can be retroactive to January 1st and they would receive the increment in the subsequent year following the creation of the revenue allocation area.

Chairman Stegner asked if a change in use of agriculture lands would prevent an increase in value going to the revenue allocation area in the future. **Mr. Vaughn** responded no. In Idaho Code, agriculture lands receive an exemption due to a specific way ag land is valued. Most of the ag land around a city is already zoned industrial, commercial, etc. When the ag land loses the farm exemption, the basis of that value is January 1st of that year. The value going to the assessment roll is the retail value of the ag land at the time not the change of use or category.

Chairman Stegner ask for clarification. Is it your view that this new language in H095aa dealing with a change in valuation from change of use of agriculture caps the amount that stays in the base assessment roll; that is the current market value of farmland not the increment that would be raised on the commercial status? **Mr. Vaughn** answered that is correct. The base value can only be adjusted upward in certain cases, it rarely adjusts upward—most of the time it adjusts downward. There were several questions with conflicting responses on determining the incremental value.

Senator Bilyeu ask for clarification on what the change actually will mean because it is my understanding that if you change that use from ag land to commercial, that part of the increment would not be included in the increment where it was before. What does this change mean? **Mr. Vaughn** answered that the current process is that when ag land comes out and is no longer farmed as of Jan. 1st, it is my understanding that the way it is put on the base assessment roll is the value of what ag land would be selling for in that area of a county. It would not be put on for the highest and best use or what it would be selling for because of the category change, it would be classified as ag land and the assessor would look at the ag land sales in the county and the average sales is what would be in the base assessment roll. The difference of what ag land is selling for and what commercial land is selling for, that is what we are trying to capture here because that is what the land is actually worth. It is bare, undeveloped land; the land is worth \$30,000-\$60,000 an acre, not the \$3000 for ag land.

Senator Bilyeu restated her question; Will that change from the \$2000/acre to the \$30,000/acre—is that in the base or does that district get that as an increment? **Mr. Vaughn** said that is a yes. **Chairman Stegner** tried one more time; the increase from the production value of the land up to the market price for ag land, that increase stays in the base but the increase up to commercial value will go to the increment. **Mr. Vaughn** stated it would be the current market value of the land as commercial bare land. **Senator Hammond** said that currently the revenue allocation area is formed and it is ag land that is being farmed, the only value going into the base is the value of the market value of ag land that is being farmed. When it ceases to be farmed and the exemption is pulled away, there is an increase in value to that land and at that point that increased value goes to the base. After that, infrastructure is put in and even improvements on the land, that land increases in value again. That increase would go to the increment. **Mr. Vaughn** responded "that

is correct on all counts." **Chairman Stegner** said there still seems to be a question about what the first value is contained in the change of use base—is it the commercial value or is it the market value of the farmland.? **Mr. Vaughn** attempted one more time. We have the ag land in a revenue allocation area. The exempt value is \$1000/acre and that is what goes into the base when it was created. When the change of use happens, under current practice, the market value of the ag land is \$3000/acre; \$2000 would be added to the base. What is being asked for is what the true market value of that undeveloped land is when it is not receiving the ag exemption.

Senator Hammond said that he thought the key question here is going from prime ag to top, developed, improved land at its highest value, that first increment once the ag exemption is removed, and it has been categorized as commercial or industrial. Do you suppose that would be 50% of the end value or would it be 30%—what we are trying to get a handle on is, out of that total amount of values that normally would have gone to the increment, how much of that are we now leaving in the base versus still going to the increment? **Mr. Vaughn** said that the last analysis he did was a subdivision in Minidoka County. The undeveloped, unimproved lots sold typically for about 1/2 of what an improved lot would sell for. His understanding is, it would only be the undeveloped value of what that would sell for. Any improvements, i.e. infrastructure, would go to the increment. We are just trying to capture what the actual value that would be going into the base as if it were commercial land instead of ag land, it would be going at \$30,000. We are just asking for that portion of land that is left in limbo by the ag exemption.

Senator Hammond gave another scenario. There are two like parcels. One is still being farmed and one is bare ground but is categorized as industrial. When the exemption comes off the farmed property and it becomes industrial, what you are saying is, if you put this area that is already industrial in the urban renewal zone, that would be the base and they would have to start from that base to take the increment beyond that. And you want the same thing to occur with ag land that becomes industrial. **Mr. Vaughn** replied "that's correct."

Erik Makrush, Idaho Freedom Foundation, supports both H095aa and H110. **Mr. Makrush** noted that the bills were a good start toward containing urban renewal policy. The first question is "what is the proper roll of government?" Urban renewal is something the business community does very well and government should stay out of the way. The biggest concern is about openness and transparency. Citizens should be able to elect or vote to create these agencies. Agriculture lands have been incorporated into these financing and revenue allocation areas and they like the reform included in these bills. They like reducing bonds to 20 years but additional legislation is needed to curb the spending that is occurring in some of the existing agencies. There is no clear definition of "blight" and shoestringing is a problem. They support the proposed amendments but since this legislation only applies to future agencies and projects, they encourage the emergency clause.

Melinda Anderson is the City of Twin Falls Economic Development Director and in that capacity, the Executive Director of the Urban Renewal Agency. **Ms. Anderson** testified both for and against these bills and asks that the urban renewal language remains whole. Twin Falls was one of the first to attract a modification area in 1989 and has had many successes with economic and urban development since that time. It is the only tool they have to help create jobs. They have recently attracted a call center, C3 Connect, who employs about 750 people during this recession. That project could not have happened without the help of urban renewal. "Let us keep doing our jobs" as economic development directors and urban renewal executive directors to continue creating new jobs which helps the community and

the state. They support any change in the bill that would include improvements to the property as part of the increment and as part of the base. In regard to the urban renewal board members' ability to approve their own board members, in Twin Falls the Mayor and City Council decides who appoint and approve the board members.

Senator Bilyeu interprets this bill as saying the electorate would vote to create the agency not the members of the agency. **Ms. Anderson** agreed. However, part of that bill also talks about how board members are actually appointed to the board. **Chairman Stegner** determined that an unfilled vacancy is filled by the board. **Ms. Anderson** thanked the Chairman for that clarification but they would recommend that those vacancies would also be filled by the city council.

David Ferdinand, Chairman, Board of Canyon County Commissioners and Board Member of the Nampa Development Corporation supports H095aa. The urban renewal districts must be subject to accountability and oversight. It is important to all taxing districts that no longer have use of increases in property value to help pay for services to all county citizens. Canyon County has lost over \$2.0 billion in property value over the last two years and now has property values at about \$7.3 billion. They have one-half billion dollars in urban renewal districts. In one instance, the increase in increment helped entice a manufacturing medical facility to the urban renewal district in the county. This was agricultural farm ground next to an expanding area of a county that is 80% agriculture. Without the urban renewal district, they wouldn't have been able to take advantage of this opportunity. When used properly and disclosed to the taxpayers, the increased value helps everyone. If not used properly, it is a disadvantage to those districts that run the costs to the other citizens within the county.

Senator Hammond asked for an explanation of "used properly" and "not used properly." **Mr. Ferdinand** said that "used properly" means getting projects that help develop jobs and help rebuild communities which adds more value to the community. **Senator Hammond** referred to the perception that services are provided in an urban renewal district but they are not paying taxes. Would those improvements be there if it wasn't for urban renewal creating the competitive edge to bring them there? **Mr. Ferdinand** believes that, especially in this economic downturn, municipalities can use this in order to help them create activity. Once economic development is started then others will want to come and be part of that community.

Testimony in Opposition to:

Gary Marks, Executive Director, Ketchum Urban Renewal Agency, set forth two areas of concern. This bill (1) prohibits districts from expanding the boundaries of a revenue allocation area and (2) reduces the maximum length of a capital bond from 30 years to 20 years making it harder to finance projects. **Mr. Marks** included proposed amendment language for both issues. (Testimony included.)

Chairman Stegner asked if there was any concern that, when bond issues over \$5.0 million are authorized for 30 years, those bonds could be over inflated because years could be added. **Mr. Marks** said that most URA bonds now are significantly less than \$5.0 million – that is a high threshold and there shouldn't be any abuse. **Senator Bilyeu** requested that Mr. Marks repeat his explanation of what would happen if expanding the boundaries of a revenue allocation area was prohibited. **Mr. Marks** explained that this bill would prevent an amendment to a revenue allocation area. The only way to add a property outside the existing revenue allocation area but still within the Urban Renewal Agency, is to form a new Urban Renewal Agency and go through that whole time consuming process. This loss of flexibility will make cities and counties less competitive. **Senator Bilyeu** called attention to the proposed amendments to this bill that would allow a one-time amendment

to expand the area. The concern is that the land may not be contiguous or only connected by a small stretch of road or what is called "shoestringing." Do you think your amendments would prohibit that type of expansion? **Mr. Marks** stated that his perspective of the bottom line is to have the flexibility to respond to economic opportunities.

Beth Ineck, City of Nampa and Nampa Urban Renewal Agency, sees good aspects to this bill, there are some major concerns. One such concern is the amendment to Section 6 dealing with the change in value of agricultural lands being added to the base assessment roll. There is agriculture land around Nampa that has been included in the comprehensive plan but is not in the Urban Renewal Agency. The changes in this bill would stop some potential projects from moving forward. They are working on a project now that will bring in \$10.0 million in private investments, employ more than 300 people, and provide jobs ranging from \$30,000-\$300,000 per year with full benefits. There are other projects in progress that will be stopped by this legislation. Those projects that and/or are already in place should be grandfathered. Without involving the agricultural lands through partnerships between urban renewal agencies and private developers, opportunities in rural communities would be lost.

Senator Bilyeu said that when the use is changed from agricultural to commercial, the only increment value that is lost is the change in the land value. You receive increment value on the building. Is that correct? **Ms. Ineck** responded that is not her interpretation, they would not receive any increment value for any growth on agricultural land. **Senator Bilyeu** suggested that this be clarified because if it is only on the land value that is totally different than if it were on the entire project. **Chairman Stegner** stated that the language suggests that the change of use from ag would help keep the value of the land. Any additional value to the land that is brought about by development would be part of the increase.

Senator Werk asked if the issues you are discussing would be classifying lands as you continue development. If the land had not been within the boundaries of your district do you think that there would have been development that took place that would require reclassifying lands? **Ms. Ineck** answered that there will always be some development take place where an agency does not exist but time and scale would depend on the availability of urban renewal funding. **Chairman Stegner** said there would be further testimony directed at that issue.

John Evans, Mayor, City of Garden City, stated that he had a different perspective to present to the Committee. **Mr. Evans** stated he represents what he thinks is a large number of communities throughout the state because he is a part time mayor of a small community. Small communities have challenges because of limited resources but infrastructure needs that are similar to larger communities. The value of this tool is very important. Some of the discussion today has alleviated some concerns. The urban renewal agency in Garden City is a pay as you go agency so the bonding issues that affect others does not implicate them. Being able to annex within the agency area and within a district are issues that are very important. This tool would help renew aging infrastructure and disadvantaged districts where other financial opportunities do not exist. The main concern is that the legislature will not impede the ability to function and deal with areas within these smaller communities that really need improvements. **Mr. Evans** urged the Committee to carefully consider changes to the current law with a do no harm perspective.

Susan Buxton, City Attorney for City of Ketchum and represents several cities as city attorney and bond council. **Ms. Buxton** stated that, although she marked "con" when signing in, they are in favor of most of this legislation. She elaborated on several areas of concern within the bill:

- The bill should be clear about public meetings and public hearings and that all of these should conform to the open meeting act in addition to a written record of those meetings.
- When amending a revenue allocation area, whether contiguous for 500 feet or if it touches or shoestringing, it would make more sense to refer back to existing law.
- Clarify the definition of base make it clear when determining incremental value when removing an agriculture or forest lands exemption.
- There should be some further consideration of the 20 year bond issue. A large project, over \$5.0 million, needs to be able to carry bonds out 30 years.
- The emergency clause is causing great concern because it could impact existing bonds.

Chairman Stegner said that the bond issue is partially brought about because the districts or allocation areas have gone on perpetually without an ending date. The theme of this document suggests that there should be a cap on the term and amount of money spent. To do this, another project should be created and go through the process with public input. The challenge is to find some kind of control to prevent abuse. **Ms. Buxton** agreed with those concerns. A positive aspect of this bill and one that is agreeable is that the URA sunsets in 20 years. The bond itself may go longer in order to get paid.

Senator Hill asked for clarification on the date the agency would be created. **Ms. Buxton** presented a proposed amendment "agency is created after July 1, 2011" on p. 1, line 33.

Ryan Armbruster, Elam & Burke Law Firm representing several urban renewal agencies, cannot fully support H095aa without further amendments. This testimony will focus on a couple of issues. Section 1 of the bill concerning the election is confusing and needs clarification as to what that election entails. Serious consideration needs to be given to change that section. The discussion today about "forestry use" and "forestry operation" is not clear. The right words would be "forestry lands." and "forestry landowner" as defined in Idaho code. There must be an option to provide an amendment process to avoid the creation of the biggest urban renewal area as possible when the agency is initiated. There has been a lot of discussion on the change of agriculture use. Farm lands that have already been zoned commercial or industrial by the county or city are addressed by significant investment in infrastructure. The proposed changes may create conflict between urban renewal agencies and assessors. Regarding the bonding issue, prior to 2000 there was no term limit on the amount of years revenue allocation bonds could be issued. As a matter of practice, those bonds generally do not go beyond 30 years. In 2000, amendments were made that shortened that period to 24 years with some provisions for the additional six years to maintain a no harm climate. That protection needs to be retained. There is great concern about the emergency clause. It will just create more confusion.

Senator Werk stated his concern about the emergency clause. Would there be a rush to develop urban renewal agencies before July 1st when the election portion kicked in if there wasn't the emergency clause? **Mr. Armbruster** responded that the answer depends on the community. The concern about a retroactive clause to January 1, 2011, is that there are some cities that have begun the process and are in the analysis stage. The retroactive clause will affect them and that may not be a fair and partial action. **Chairman Stegner** stated that the emergency clause, as he understands it, clears up any confusion dealing with the date of the base assessment because it always goes back to the first of the year and this just conforms to current practice. It doesn't change anything in the implementation which is the July 1st date. **Mr. Armbruster** said that if the emergency clause only addresses the base assessment roll, there is no problem with that.

Senator McKenzie asked if the language in the proposed amendment addresses the issue raised about conflicts between assessors and agencies. **Mr. Armbruster** answered that the insertion of that language related to agriculture lands provides more explanation than the current bill does. However, "caused solely" always causes concern—don't know what that is supposed to mean. **Chairman Stegner** asked Mr. Armbruster to provide some alternative language keeping in mind it is not a commitment for the committee.

Jack Bariteau, Real Estate Developer and Board Member of Sun Valley Economic Development Corporation, pursued the reworking of urban renewal law from the point of view of the private sector and as part of an urban renewal group. **Mr. Bariteau** urged the legislature to leave the URA rules and governance as it stands. Reducing bonds from 30-years to 20-years will have a negative effect on a community's effort to build an infrastructure and the funding necessary for expansion and growth. (Written testimony included.)

Senator Hammond asked for an example of a typical term for private capital. **Mr. Bariteau** said that, historically, depending on the cycle we are in, that money is available anywhere from 15 to 30 years and that depends on the type of financing. In today's environment, no one is sure what those durations may be. Also, costs may increase with a 20-year bond issue and could preclude the viability of the project.

Vice Chairman Siddoway wanted information on how an urban renewal district would get support from a community when those who would benefit most from jobs and work reside outside the area. **Mr. Bariteau** responded that they look for balance; creating jobs within the community as well as creating housing opportunities. The object is stop importing workers and to see the community grow on a sustainable level where people live, work, and contribute to the community. **Vice Chairman Siddoway** stated his concerns about the cost differential of living within the area and living outside the area. The jobs that are created are service jobs and the cost of living in the Sun Valley area is so high that those jobs can't sustain that standard of living. **Mr. Bariteau** reported that they have been very active in getting affordable housing by making zoning changes and creating a rental housing base in the surrounding area.

ADJOURNMENT: **Chairman Stegner** asked for further testimony. Being none, he thanked everyone for their attendance and testimony. The Committee will adjourn until tomorrow, Wednesday, March 16th, at 3:00 p.m. when discussion will continue on H095aa and H110. Meeting adjourned at 5:25 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #1 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 16, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H0095</u> (cont)	RELATING TO URBAN RENEWAL requiring that an Urban Renewal District be created by a majority of voters in a city-wide election; provides for removal of board members for misconduct; provides that the board can fill a vacant position by majority vote; provides for appointment of a chairman or vice chairman; increases time for public comment from 30 to 60 days; limits bond term to 20 years; prohibits districts from expanding by annexation; requires agriculture land owners to provide written consent before being included in an Urban Renewal District.	Representative Mike Moyle
<u>H0110</u>	RELATING TO URBAN RENEWAL adding a public hearing to the process of establishing an Urban Renewal Project.	Representative Vito Barbieri

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 16, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:04 p.m. with a quorum present and welcomed the audience and Committee members. The hearing for H0095aa will continue. It is the intent of the Committee to complete hearings on both H0095aa and H0110 today.

H0095aa (cont.) RELATING TO URBAN RENEWAL

Hubert Osborne, member of the Taxpayers Accountability Committee (TAC), offered testimony in support of this bill. (Written testimony included with minutes.) **Ronald Harriman**, member of TAC, testified in support of the legislation when accompanied by the proposed amendments.

Max Vaughn, Assessor, Minidoka County, representing Minidoka County and Idaho Association of Counties, added some clarification to his testimony from March 15th regarding change of use values and providing code references to be included within the bill. (A suggested amendment is included with the minutes.)

Senator Hill asked if the intent was to send this bill to the 14th order for amendment considering the proposed amendments put out for review. **Chairman Stegner** said that was the plan.

Senator Hammond explained that the intent of the amendment to Section 1 was to grandfather existing agencies. **Senator Bilyeu** asked if you grandfathered the agencies, does that include the projects and what is the definition of projects? **Senator Hammond** responded that, as he understood it, it would include the agencies and any current projects. Voting would be for new agencies only. **Chairman Stegner** added that it would be any existing agencies and any ongoing projects that were already approved. **Senator Hammond** stated that there may be some additional language needed because there may be a question on whether they are voting on new districts or voting for the agency itself. **Senator Bilyeu** inquired if (I) on page 5 of the bill was deleted and would there be a change in how the revenue allocation proceeds were disbursed. **Chairman Stegner** said that it was deleted because disbursement procedures were already in code.

Senator Hammond stated that Section 4, for clarification purposes, changed "forestry operation" or "forestry use" to "forestry land" to be consistent with terminology used by the ISTC. Section 5 allows a one time amendment limited to a 10% additional annexation to the the urban renewal district. Sections 5, and 6 are included for clarification purposes.

Chairman Stegner noted that there has already been a number of suggestions and comments pertaining to the language on page 11, lines 1-2. There should be

some modifications to that change for consideration. **Senator Bilyeu** commented that amended language is very good. It is a change from what is being done now but it is the only time that other taxing districts have an opportunity to pick up any additional value in the urban renewal district. The district then gets all of the value from any improvements that are made.

Susan Buxton, City Attorney, Ketchum, added to her previous testimony. After reviewing the testimony and the amendments, she made some recommendations (included with minutes).

Senator Hammond continued with Section 7, page 14 changing the life of the plan and bonding to twenty years. Section 10 is a new section declaring an emergency with a retroactive effective date to January 1, 2011.

Senator Werk noted that if there was an amendment (Section 1) with a date of July 1, 2011 and then Section 10 provides for a retroactive date to January 1, 2011; is there a conflict within the bill? Does this apply to a specific issue? **Chairman Stegner** answered that he is aware of the confusion relating to those potential conflicts in dates. The January 1st date applies primarily to the base assessment and what valuations that may be used.

Chairman Stegner asked for consideration on two other amendments A2 and A3. A2 adds language requiring certain information in the creation of the plans. A3 provides a declaration of the valuation of the base assessment roll and the total assessed valuation of all taxable property within the municipality recognizing the need for a ratio related to those values to be added to certain information in the creation of plans.

Chairman Stegner explained that the Committee will not be voting on the amendments, only explaining them. He asked for any discussion on the bill before the Committee.

MOTION:

Senator Hill moved, seconded by **Vice Chairman Siddoway**, to send H0095aa to the 14th order of business for possible amendment. Motion carried by voice vote. **Senator Hammond** will be the sponsor.

H0110

RELATING TO URBAN RENEWAL adds a public hearing to the process of establishing an urban renewal project. **Representative Vito Barbieri** stated that this is the fourth of the House urban renewal bills. The central idea of this bill is to make urban development committees more accountable to the taxpayers. H0110 adds a public hearing with public notice and comment regarding the plan for the contemplated project.

Senator Hammond said that the purpose is to ensure that the elected body holds a hearing on the intent of the project prior to the agency moving forward with any projects so that the community has an opportunity to respond to the plan.

Senator Werk stated that it seems that there would be two hearings on the same plan. What is the difference between the two? **Representative Barbieri** and **Senator Hammond** responded to **Senator Werk's** questions. There are two hearings that address two separate issues. The hearing in subsection (a) is the first public hearing that determines if an area is deteriorated. Public input is considered and, if that designation is made, a declaration is sent to the planning and zoning commission (P&Z) who reviews it to see if it is appropriate relative to the comprehensive plan and, if so, returns it to the city council. At this time a second hearing is held, provided for in subsection (b), where the plan for the specific project that will fix the deteriorated area is presented to the governing body and the public. Notice is given for both hearings. **Senator Werk** raised other questions that led both **Representative Barbieri** and **Senator Hammond** to agree that there should

be more clarification and that H0110 should be amended. **Senator Bilyeu** agreed that clarification should be made about what occurs at each meeting.

Chairman Stegner called for further testimony. Being none, he asked for discussion from the Committee.

Senator Hammond commented that it is very likely that even though the determination was that the area was deteriorated, it probably would work better to say that they should hold a public hearing and omit the rest of that language; that would clean that up. They can submit a plan if they want but the real purpose is to whether to make a declaration or not. H0110 should be sent to the amending order not to amend so much as to strike some language.

MOTION: **Senator Werk** moved, seconded by **Senator McGee**, to send H0110 to the 14th Order for possible amendment. The motion carried by voice vote. **Senator Hammond** will be the sponsor.

ADJOURNMENT: **Chairman Stegner** thanked the audience and members of the Committee and there being no further business, the meeting was adjourned at 4:07 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #2 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 17, 2011

SUBJECT	DESCRIPTION	PRESENTER
MINUTES FOR APPROVAL:	Minutes of February 23rd	Senators McKenzie and Corder
	Minutes of February 24th	Senators Siddoway and Hill
	Minutes of March 1st	Senators Hammond and Werk
	Minutes of March 8th	Senators Siddoway and McKenzie
GUBERNATORIAL APPOINTMENT:	Tom Katsilometes to the State Tax Commission	
<u>S1054</u>	RELATING TO PROPERTY EXEMPT FROM TAXATION to revise the required military status for a person not to lose the homeowner's property tax exemption.	Senator Hammond
<u>H0217</u>	RELATING TO HOSPITAL DISTRICTS to revise Idaho Code to comply with the constitutional changes relating to hospitals that was voted on in the November, 2010 elections regarding the ability to incur indebtedness.	Steve Millard, Idaho Hospital Association
<u>H0124</u>	RELATING TO PROPERTY TAXATION to revise provisions relating to new construction roll to provide for a five year (5) time frame when changes could be made.	Representative Ken Roberts

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 17, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:07 p.m. with a quorum present.

MINUTES: **Senator Corder** moved, seconded by **Senator McKenzie**, to accept the minutes for February 23, 2011 as written. The motion carried by voice vote.

Vice Chairman Siddoway moved, seconded by **Senator Bilyeu**, to accept the minutes for February 24, 2011 as written. The motion carried by voice vote.

Senator Hammond moved, seconded by **Senator Werk**, to accept the March 1, 2011 minutes as written. The motion carried by voice vote.

Vice Chairman Siddoway moved, seconded by **Senator McKenzie** to accept the March 8, 2011 minutes as written. The motion carried by voice vote.

GUBERNATORIAL APPOINTMENT: **Chairman Stegner** welcomed **Tom Katsilometes** to the Committee for reappointment as commissioner to the Idaho State Tax Commission (ISTC) and asked him for some background on his service to the state of Idaho.

Commissioner Katsilometes served on the Bannock County Commission for 18 years; 16 of those years as Chairman. During that time, they started the Idaho County Risk Management Program for the state; he was chairman for 11 of the 15 years he served on that board. About 500 municipalities joined that organization. He also served on the Idaho Health Facilities Board financing hospitals, nursing homes and health structures around the state. He was also involved with the State Athletic Commission covering professional boxing, mixed martial arts, and professional wrestling in Idaho. **Commissioner Katsilometes** explained that his duty is the oversight of the Property Tax Division whose main functions are to ensure equitable, accurate property assessment and appraise operating properties like Idaho Power and Union Pacific.

ISTC oversees property values of \$112.3 billion to make sure they are assessed, levied, and taxed correctly; and, that they are equitable and uniform through out the state. Training is provided for county elected officials and employees. Over the last three years, there have been 218 continuing educational classes providing education to 3,179 students. They also administer the Circuit Breaker Program involving 28,930 cases, saving the state \$560,000. Savings to individuals through the Circuit Breaker Program amount to \$6.0 million. The people who do the hard work in the Property Tax Division are **Alan Dornfest** and **Steve Fiscus**.

Commissioner Katsilometes commented that the counties and cities seem to be very happy with the operation although there were a few "rough edges" in the last couple of years but things have smoothed out with the appointment of

Chairman Bob Geddes. Introduction of the commissioners followed: **Chairman Geddes**, Commissioners **Sam Haws** and **David Langhorst**. He also introduced his wife, Bessie.

Chairman Stegner referred to comments about the change in the chairman and the positive impact of that change. Since it is the middle of tax season, how is the work load and the morale? **Commissioner Katsilometes** responded that the morale has gone from "not real good to the top of the ladder." **Chairman Geddes** has brought a new perspective and a way of making the system work that makes everyone feel inclusive, and makes them feel good and happy to come to work each day. That is the current mood at the Tax Commission.

Senator Werk asked if there are counties that are problematic and what is being done for the citizens? Are there counties that resist training? **Commissioner Katsilometes** stated it is the ISTC's job to resolve any problems so that the counties can do their job correctly, equitably, and according to the law. In most cases, the educational component is welcomed.

Senator Hill asked if there was enough technical expertise available to the Commissioners. **Commissioner Katsilometes** said that the expertise they rely on as far as property tax is invaluable. The people they rely on have been there for 30-40 years and are experts in the operation of the commission. The commissioners are there to set policy and work with the technical people to accomplish the goals of the Commission. The legal area may be lacking a little in the budget area. When ISTC goes against a large entity that can bring in high powered legal assistance and expert witnesses, there can be a problem because of budget restraints.

Senator Bilyeu agreed with the remarks about the level of expertise of those people working with the Commissioners. They are the ones she calls on to answer questions.

Senator Corder asked about the Board of Tax Appeals (Board). What is your relationship with them? How might the work they do be more meaningful to the Commission and what is the working relationship between the two commissions? **Commissioner Katsilometes** stated that the Board is completely separate. The working relationship is very limited. They are a three person judicial board that handles their own cases. **Senator Corder** questioned the balance between the Board and the Tax Commission since the Board hears appeals involving the Commission. The Board is three people with two staff members and a small budget compared to the expertise and budget of the Tax Commission. Is the level of their appeals adequate? **Commissioner Katsilometes** commented that he only knew the basics about their process and so couldn't say anything about how they operate.

Chairman Stegner thanked **Commissioner Katsilometes** and announced that voting for the appointment would take place at the next committee meeting.

S1054

RELATING TO PROPERTY EXEMPT FROM TAXATION FOR MILITARY PERSONNEL

Senator Hammond introduced S1054 saying that the intent of the bill is to ensure that people from the armed forces like the National Guard can maintain their homestead exemption. Some assessors currently allow that exemption to continue but this would say, in code, that the exemption could be extended even if they leased out their property while they were gone. In terms of the proposed amendments that are with the bill, they clarify the definition of active military service, add humanitarian service authorized by a sponsoring organization, and set forth other requirements for documentation.

Senator Werk asked what "military service" means if it is not defined in code. What is a "sponsoring organization?" **Senator Hammond** said that a sponsoring organization could be any humanitarian organization where proselytizing was not the primary intent.

Senator Bilyeu inquired if there was a time limit. **Senator Hammond** answered time limit is not addressed, but it must be active duty. **Chairman Stegner** pointed out that there wasn't a term but there is the option for the homeowner to file a declaration that the homestead will be the owner's primary dwelling place. **Senator McGee** stated he would support those in the armed services and can understand about helping with a disaster but that clouds the intent of the bill. When called to active duty "they had no choice" is the key here and the bill should be limited to military service.

Senator Corder stated that the policy of the state is specific to active military service in a designated combat zone. That is very special, if we take that away we have minimized that effort. That special service should always be treated as such.

Senator Hammond commented that when someone is called to active duty, they do not know where they will be sent. Will it be in a designated combat zone and how do you establish that? There is a degree of sacrifice being in a combat zone but there is also a certain amount of sacrifice just serving in the National Guard and being prepared to drop everything when called to active duty, they deserve that protection. **Senator Corder** said a combat zone is defined in the IRC.

MOTION:

Senator Corder moved, seconded by **Senator McKenzie**, to hold S1054 in committee. The motion carried by roll call vote with Senators McKenzie, Corder, McGee, Werk and Bilyeu voting aye and Senators Siddoway, Hill, and Hammond voting nay.

H0217

RELATING TO HOSPITAL DISTRICTS

Steve Millard, President, Idaho Hospital Association, presented H0217, allowing public hospitals to incur indebtedness as long as no ad valorem taxes are used to repay that debt and is the result of a constitutional amendment passed in last November's election. The amendment addressed two types of public hospitals; county hospitals and district hospitals. This bill addresses only the eight district hospitals covered by Idaho Code, section 39-1318-1357. Section 39-1339 currently addresses the creation of indebtedness for district hospitals and now conflicts with the new constitutional language. This bill changes that code section to eliminate the conflicts.

The bill removes the requirement that a district hospital must finance its debt through the Idaho Health Facilities Authority but still leaves that option open. The bill clearly states that if indebtedness is paid from ad valorem taxes, it requires a 2/3 majority vote. The threshold over which indebtedness requires a vote was changed from \$100,000 to \$500,000 and that threshold is not to exceed the revenues provided for the year. Any obligations incurred shall be payable solely from income derived from the facility.

Chairman Stegner referred to page 1, line 32 which is the financing option and stated that the language comes from Article 8, Section 2 of the Constitution. The new language added on page 1, line 24 encompasses the scope of the authority of the hospitals and, again, is current language taken from the Constitution. **Mr. Millard** agreed.

MOTION:

Senator Hill moved, seconded by **Vice Chairman Siddoway**, to send H0217 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Chairman Stegner** will be the sponsor.

H0124

RELATING TO PROPERTY TAXATION

Representative Ken Roberts stated that this bill is a correction to H0645 that was passed in 2010 to allow for property tax rolls to be corrected. The correction deletes the word "previous" and adds a specific time frame, a five-year window, for the county assessor to look back and determine if there has been an error. If there has been a change due to a tax appeal, a court ordered change, or a reduction in land value due to reclassification, it can be corrected and still meet the intent of H0645.

Senator Hill asked if this change has any effect on the statute of limitations in regard to the actual property values upon which property taxes are assessed in case there was a mistake found. **Representative Ken Roberts** yielded the question to **Tony Poinelli**, Idaho Association of Counties (IAC).

Mr. Poinelli responded that if there is a mistake made, errors will be picked up the same year. Errors going back that far are erroneous mistakes and errors and there is a specific statute dealing with them. **Mr. Poinelli** provided an example of what could happen if the classification changed. Discussion followed on how the change would be calculated over a period of time. **Senator Hill** said that prior years will not change, it will only affect the current budget, is that correct? **Mr. Poinelli** agreed.

Senator Hammond asked if it is affecting the budget or the levy rate. **Mr. Poinelli** responded that it affects the budget and might affect the levy rate. **Chairman Stegner** noted that the budget would be adjusted downward.

Mr. Poinelli reported that IAC supported this bill. It will help counties because they don't keep records going back too many years.

Senator Bilyeu agreed that it is helping the counties by limiting the time period when there is a court ordered value change that a property owner can go back for the adjustments.

MOTION:

Vice Chairman Siddoway moved, seconded by **Senator Hill**, to send H0124 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator McGee** will sponsor the bill.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 22, 2011

SUBJECT	DESCRIPTION	PRESENTER
VOTE GUBERNATORIAL APPOINTMENT:	Vote on Appointment of Tom Katsilometes as Commissioner to State Tax Commission	
<u>H0194</u>	RELATING TO A SALES AND USE TAX REBATE to extend the sunset for a rebate of sales or use tax on personal tangible property used by a media production company to July 1, 2016,	Tom Williamson, SOA Entertainment, Idaho Film Producer
<u>H0213</u>	RELATING TO SALES TAX to add language to clarify that sales price shall not include a gratuity or tip when serving meals and is not taxed to be consistent that services are exempt from sales tax.	Representative Cliff Bayer
<u>H0214</u>	RELATING TO USE TAX to amend Idaho law to exempt non-resident students from paying use tax on their motor vehicles registered or licensed in their home state while attending an institution of higher education accredited and located in Idaho.	Representative Scott Bedke

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 22, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Werk, and Bilyeu

ABSENT/EXCUSED Senator Hammond

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order at 3:04 p.m. with a quorum present. **Senator Hammond** has an excused absence.

MOTION: GUBERNATORIAL APPOINTMENT VOTE: **Senator Bilyeu** moved, seconded by **Senator Corder**, to send the gubernatorial appointment of Tom Katsilometes as Commissioner to the Idaho State Tax Commission to the Senate floor with a do pass recommendation that it be confirmed by the Senate. The motion carried by voice vote. **Senator Bilyeu** will be the sponsor.

Chairman Stegner welcomed **Tom Williamson** to present H0194.

H0194 RELATING TO SALES AND USE TAX REBATE extends the sunset for a rebate of sales or use tax on personal tangible property used by a media production company to July 1, 2016.

Mr. Williamson, SOA Entertainment & Idaho Film Producer, opened his discussion by providing some history on this legislation. A task force was organized in 2005 (handout enclosed) two legislative actions resulted from that organization: 1) Media Production Sales Tax Rebate which was approved with the attachment of a sunset clause; and, 2) Media Production Income Tax Credit/Rebate which was not approved. A second handout on H194, prepared by **Mr. Williamson**, provided a full outline of why this legislation should be extended and what this niche of the film industry could do for Idaho, mostly in small communities. Fifteen years ago, Dante's Peak filmed in Northern Idaho, created an economic stimulus of \$11.0 million and was probably the biggest film to come into the state as far as an economic impact. Since then, a shift in the industry resulted in legislation created in 2006 when incentives became standard. The original legislation was a mechanism to attract industry and maintain the Idaho indigenous industry.

The mechanics of this bill are based on the tangible personal property portion of a media production expenditure, not the full budget. The portion of the budget this applies to is pretty standard to neighboring states although some of those states do not have sales tax and this brings Idaho some equality in that area. Since that time, \$6.0-\$7.0 million has been brought into the state. Not everyone has applied for that rebate. The incentive allows a producer to look at this state and know there will be something coming back on the 20% of the budget that is spent on purchases. There is also a cash infusion into the state and community. Extending the sunset for the next five years keeps Idaho on the website saying that there is an active, working incentive. **Mr. Williamson** outlined the activities of the film industry within the state, both historically and those that are current, as

well as possibilities for the future. He reviewed what other states are doing as far as incentives and the kinds of films that are going to those states.

Senator Werk remembered that the incentive was set up to guarantee that it would bring in more economic benefit and tax monies than what would ever be paid out. A minimum of \$200,000 spent for a media production project was set to qualify for the incentive. Has the income to the state and communities been in excess of the amount of the incentives paid out? **Mr. Williamson** stated that was the intent.

Senator Hill asked why this would make a difference when other states, and even countries, have huge incentives. In his answer, **Mr. Williamson** said that this keeps Idaho on the website showing there are at least some incentives—its that extra step to say Idaho is interested.

Chairman Stegner noted that the Japanese film company that made "Three of a Kind" has not made an application as yet. **Mr. Williamson** said they have not.

Senator Corder asked why is 20% a subsidy and less than 20% not—do you have data? **Mr. Williamson** responded that the major programs in neighboring states pay back 20% on those purchases. Idaho's incentive is based on only a part of that budget—about 20% of the operating budget within the state. There is economic data based on California but by looking at budgets and using conservative multipliers, economists extrapolate where the dollars go.

The following people testified in support of H0194:

Karen Ballard, Administrator for the Division of Business-Department of Film, Department of Commerce

Norris Krueger, PhD, Boise State University and member of the Idaho Film Industry Task Force

Mr. Williamson showed a short film clip on "Saving Council" and closed his presentation.

Chairman Stegner stated that H0194 is before the Committee; is there discussion?

Senator Hill commented that he is really conflicted on this bill. If we were ever to apply a sales tax rebate, this meets the requirements we have asked for. It requires a minimum investment of \$200,000, they have to apply for the rebate, it can be tracked to see how much it is costing the state, it has a sunset, it requires very few government services, and he is impressed with **Mr. Williamson's** efforts. It is a small investment for the return to small communities. It goes against some things he believes in but in this case he supports this bill.

MOTION:

Senator Hill moved, seconded by **Senator Bilyeu**, to send H0194 to the Senate floor with a do pass recommendation.

Senator Werk acknowledged that he is conflicted as well. We have done the right thing, we have a bill with a sunset back for review and it seems to have been useful and it doesn't seem to cost us anything so he will support the bill despite that angst and resistance in terms of exemptions.

Senator McKenzie stated he voted against this in 2006 and he understands all the points that Senator Hill brings up but he will stand with his "no" vote. This is nice to have but it doesn't drive people to move their production here.

Senator Bilyeu said that she is not conflicted at all. She loves theatre and movies and is intrigued with the project "Saving Council" and if they get going they truly can save Council, Idaho. It is such a small investment that we can be making as a state and it is important so she supports the bill.

VOTE:

The motion carried by voice vote. **Senator Bilyeu** will be the sponsor.

H0213

RELATING TO SALES TAX clarifies that sales price shall not include a gratuity or tip when serving meals.

Pam Eaton, Representative, Idaho Retailers and Idaho Restaurant Association, distributed copies of the Idaho Administrative Code IDAPA 35.01.01 (04) "Gratuities" and asked for the Committee's support of H0213. This bill adds language to clarify and make consistent that the sales price should not include gratuity for serving meals and therefore is not subjective to sales tax. For background, the Tax Commission (ISTC) had a little known rule that in situations (a) and (b) on the handout, are not subject to sales tax but in situations (c) and (d), the gratuity is subjected to sales tax. In all four situations, the gratuity goes into the servers pocket, it does not go to the restaurant. The server then pays federal and state income taxes. The rule has been in place since 1993 and recently it came to light through the audits. After much discussion between ISTC, attorneys, and restaurants, H0213 was crafted. This explicit exemption says tips or gratuities on a meal will not be subject to sales tax except when the service charge is added in by banquets, hotels, or convention centers.

Chairman Stegner voiced his concern that the language may allow an establishment to manipulate charges between the amount charged as product which is eligible for sales tax and the amount allocated to gratuity which is exempt from sales tax by adding a higher, mandatory tip to the bill. **Ms. Eaton** replied that those actions would be bad business practice and customers would walk out. If there were mandatory gratuities, people would stop coming to that business. This language was suggested by the Tax Commission to reduce the likelihood of fraud. The bill is clear that it is gratuity going into the servers pocket and if it starts going into the business it is something else which is covered under other sections in code . Stated gratuities are not mandatory, the customer can always negotiate or pay the amount he wants to pay.

Senator Corder asked how the Tax Commission discerns the difference. What evidence is there that would indicate which part was food and which part was a gratuity for service when it is printed on the bill? Does this occur during an audit? **Ms. Eaton** said the auditor goes back and looks at sales receipts that show if the tip was written in or if it was left blank. If a large party goes into a restaurant, there could be a gratuity amount written in based on the total bill before sales tax. The percentage for large parties is generally written somewhere on the menu. When the sales receipt is printed, the gratuity is printed on a separate line and identified as such – there is nothing handwritten.

Mr. John interjected some further explanation. The only time that this is an issue is if the gratuity is mandatory. If a tip or gratuity is given voluntarily it is not a problem. It is only when it is mandatory and must have been included in the price on the sales slip.

Senator Hill commented that for this to qualify, it must be the same standard as other invoices and the gratuity has to be separately stated in order to be exempt from the tax. Is that correct? **Mr. John** agreed – if it is separately stated, it is usually not mandatory. **Senator Hill** said that when he goes into an establishment and it says 18% gratuity for eight or more, I know exactly what the bill is because the orders came off the menu and then the 18% gratuity is added as a separate line item. It is not built into the menu. That would meet that requirement. **Mr. John** stated that if the gratuity is broken out separately and if it is mandatory, not voluntary, under current rule it would be taxable.

Senator Hill addressed a question to **Ms. Eaton**. Where, in this bill, does it say it only applies to restaurants and not to certain other establishments? **Ms. Eaton** replied that it doesn't specifically say that it only applies to restaurants. But, it doesn't apply to those other establishments like hotels and conference centers because when a banquet is served at those places, the bill doesn't say gratuity, it says service charge. That service charge goes into the banquet facility and not necessarily into the servers pocket.

Ms. Eaton closed by asking for the Committee's support. It is an inaccuracy in a little known rule that causes a lot of confusion.

Chairman Stegner stated that H0213 is before the Committee.

MOTION:

Senator Werk moved, seconded by **Senator Hill**, to send H0213 to the Senate floor with a do pass recommendation.

Senator Hill said that, generally speaking, services are not subject to sales tax. It shouldn't make any difference whether the gratuity is written in voluntarily or added as a certain percent for larger groups. This is a matter of equity and this should be fixed.

VOTE:

The motion carried by voice vote. **Senator Werk** will be the sponsor.

H0214

RELATING TO USE TAX to exempt nonresident students from paying use tax on their motor vehicles.

Representative Scott Bedke introduced H0214 to the Committee saying that it makes a minor change to the Use Tax Statute. Current statute requires the assessment and application of a use tax to all vehicles that are within the state for more than 90 days in any 12 consecutive months. As such, those resident students attending colleges and universities in the state of Idaho, both private and public, are subject to this fee. This is erratically enforced over the state. The amount of use tax is based on Idaho's 6% but it is offset by whatever the tax rate is in the student's home state. There are several qualifications to meet this exemption: the student must be full time; the vehicle must be registered and licensed in the student's state of residence; the institution must be postsecondary education and both physically located and accredited in the state of Idaho.

Representative Bedke stated that the current rule is not universally enforced and could create a hardship to that student.

Senator McGee stated that he supports this idea but do all the secondary education schools, both private and public, go through the same accreditation through the Idaho State Board of Education? **Representative Bedke** said that they do.

MOTION:

Senator Siddoway moved, seconded by **Senator McGee**, to send H0214 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator McGee** will be the sponsor.

ADJOURNMENT:

Chairman Stegner assigned sponsors at this time. This completes the work for today and there will be a meeting tomorrow. There being no further business, the meeting adjourned at 4:32 p.m. until Wednesday, March 23rd at 3:00 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, March 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H224</u>	RELATING TO THE LOCAL PLANNING ACT amending the Local Land Use Planning Act to conform to county practice prior to the amendments made in 2010. This legislation does not affect the underlying reason the 2010 amendments were made. The procedures for these applications are provided for according to each county's zoning ordinances.	Teresa Baker, Ada County Prosecutor's Office
<u>HCR025</u>	STATING FINDINGS OF THE LEGISLATURE to request the implementation of a one year delay of the incremental increase of the grocery tax credit to serve as a factor to balance the FY 2012 budget.	Senator Russ Fulcher

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, March 23, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Werk, and Bilyeu

ABSENT/ EXCUSED: Senator Hammond

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman Stegner called the meeting to order with a quorum present, welcomed visitors and committee members, and stated that the first order of business would be H0224.

H0224 RELATING TO THE LOCAL PLANNING ACT amending the Local Land Use Planning Act to conform to county practice prior to the amendments made in 2010. This legislation does not affect the underlying reason the 2010 amendments were made.

Teresa Baker, Deputy Prosecuting Attorney for Ada County, is bringing H0224 before the Committee on behalf of Ada County and the Idaho Association of Counties. This bill addresses a problem that was inadvertently created by the passing of H605 in 2010 dealing with Idaho Supreme Court decisions that many regarded as confusing. The court had held that certain types of zoning decisions were not entitled to judicial review because the Local Land Use Planning Act (LLUPA) only authorized "permits" to be given judicial review. When H605 changed the word "permit" to "application," it meant that every application taken by a local planning agency had to be first submitted to a planning and zoning (P&Z) commission for a recommendation or decision. There are several applications that, prior to H605, were not subject to review by P&Z.

Counties and cities have different processes but they are similar in nature and if this amendment is not made, all counties and cities will have to change their current zoning processes and ordinances to comply with the statute resulting in all applications going through P&Z commissions. It would also increase time and costs for the applicants. At this time, only the approval or denial of conditional use permit applications or sketch plats require a final decision by a P&Z commission and even those decisions may be appealed. **Ms. Baker** said that the Idaho Association of Realtors was also involved in providing the language in this bill and, to her knowledge, there is no opposition to this bill. She asked for the Committee's do pass recommendation.

Senator McKenzie stated that his understanding of the testimony is that if lines 17-19 on page 2 are struck, there are several types of applications that would not come through P&Z commissions (23 in Ada County). **Ms. Baker** answered that she had used Ada County as an example. Currently, those applications do not go through P&Z. Each county or city can handle those applications however they choose as long as it is outlined in their zoning ordinances.

MOTION: **Senator McKenzie** moved, seconded by **Senator Hammond**, to send H0224 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Senator McGee** will sponsor the bill on the Senate floor.

HCR025

STATING FINDINGS OF THE LEGISLATURE to request the implementation of a one year delay of the incremental increase of the grocery tax credit to serve as a factor to balance the FY 2012 budget.

Senator Fulcher stated that HCR025, if approved, will result in a one year delay in the annual increase of the grocery tax credit. **Senator Fulcher** provided a brief history of the grocery tax credit that began in 2006 with a shift from property tax to sales tax culminating, two and a half years later, with the grocery tax credit to give relief for sales tax on groceries. The credit would gradually increase from year-to-year for eight years, ultimately, to equal the average sales tax paid on grocery purchases over the course of a year. There was a caveat within the 2008 legislation that if the economy was such that the legislature was struggling to balance the budget, there could be a delay in the annual increases. The financial needs of the state dictate that this step should be taken. **Senator Fulcher** asks for the Committee's support in passing this bill because of the positive fiscal impact it will have.

MOTION:

Vice Chairman Siddoway moved, seconded by **Senator Hammond**, to send HCR025 to the Senate floor with a do pass recommendation.

Senator Hill asked why this is in the form of a concurrent resolution rather than a statute change. Why are we requesting the Governor to issue an executive order? Can he issue that executive order without legislative approval and, if so, is this just to show support? **Senator Fulcher** responded that the original bill was structured with the intent that the legislature would act on it with a resolution if the legislature was in session when it became evident there was a need. If the legislation was not in session, then the Governor also had a mechanism where, under certain circumstances, he could take action without calling a special session.

Senator Bilyeu inquired if any consideration had been given to the fact that different income levels would be affected differently. **Senator Fulcher** answered no, the intent was to keep it simple and keep the spirit of the bill still intact. **Senator Hammond** added that the levels of income are treated differently in the original bill and so they will continue to be treated in different increments under this resolution. **Senator Fulcher** agreed that would be correct.

Senator Werk commented that he appreciated the effort to put this resolution forward but he would not be able to support the bill. The issue is that this is the only thing being done to raise revenue out of the gamut of possibilities whether it is sales tax or any multitude of other things. This is making food more expensive for citizens.

Senator Hammond responded to Senator Werk saying that this bill doesn't make food any more expensive, it does continue to reduce the cost.

Senator McGee stated that neither Senator Fulcher or Representative Bayer want to do this. They have worked hard over the past years to get this legislation and it is difficult to bring this resolution forward. He also wants to compliment them for their work.

VOTE:

The motion carried by voice vote with **Senator Werk** voting nay. **Senator Fulcher** will be the sponsor.

Chairman Stegner announced that there would not be a meeting on Thursday and there being no further business, the meeting was adjourned at 3:27 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #1 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
2:00 P.M.
Room WW53
Tuesday, March 29, 2011

SUBJECT	DESCRIPTION	PRESENTER
	NOTE CHANGE OF TIME TO 2:00 P.M. TODAY, TUESDAY, MARCH 29TH	
Minutes	March 2, 2011	Senators McGee and Werk
	March 9, 2011	Senators Corder and Hammond
	March 15, 2011	Senators Bilyeu and Siddoway
<u>H0239</u>	RELATING TO PUBLIC WRITINGS to clarify the law concerning exemptions for confidential information provided to taxing agencies for property tax assessment purposes and to prescribe procedures for certain documents.	Mike Reynoldson, Micron
<u>H0296</u>	RELATING TO THE INCOME TAX CREDIT FOR CAPITAL INVESTMENT making technical corrections to clarify that credit is not allowed for investments in property for which certain deductions have been allowed under Section 179 of the Internal Revenue Code in arriving at Idaho taxable income.	Dan John, Idaho State Tax Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 29, 2011

TIME: 2:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED: Senator Hill

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 2:09 p.m. with a quorum present. The gavel was relinquished to **Vice Chairman Siddoway** and **Chairman Stegner** was temporarily excused to return to the Commerce Committee Meeting. **Vice Chairman Siddoway** called for motions to approve the minutes.

VOTE ON MINUTES: **Senator Werk** moved, seconded by **Senator Corder**, to approve the minutes of March 2, 2011 as written with one correction. The motion carried by voice vote.

Senator Corder moved, seconded by **Senator Bilyeu**, to approve the minutes of March 9, 2011 as written. The motion carried by voice vote.

Senator Bilyeu moved, seconded by **Senator Corder**, to approve the minutes of March 15, 2011 as written. The motion carried by voice vote.

Vice Chairman Siddoway welcomed **Mike Reynoldson**, Government Affairs Manager, Micron Technology to present H0239.

H0239 RELATING TO PUBLIC WRITINGS to clarify the law concerning exemptions for confidential information provided to taxing agencies.

Mr. Reynoldson explained that H0239 provides for an adjustment in Idaho code when dealing with records exempt from disclosure. Historically, Micron, along with others, submit a tax return to the local taxing districts that includes a list of personal property along with a variety of other information related to that personal property ranging from a piece of equipment costing \$50.0 million to a cubicle or a chair. A competitor could put that information together in a stream and determine how an operational process works. This is information that legally gives a company a business advantage and shouldn't be put into someone else's hands. Last year the Tax Commission (ISTC) started dealing with a rule related to the county evaluation process carried out by assessors. Part of that rule called for detailed information around personal property to be made public. That was a big concern. Oral and written testimony was presented opposing the rule but ISTC said they were bound by existing legislation. A good solution would be to codify current behavior by taxing entities. That is what this bill does. Micron is protected in the other ten states where they file, as is other proprietary information. **Mr. Reynoldson** went through each change within the bill. The main body of change spells out the specifics of the new requirements and refers to other sections of code that correspond to this section.

Senator McKenzie asked what it meant when it said exempting out "confidential commercial or financial information including trade secrets." **Mr. Reynoldson**

said that when talking about confidential information or trade secrets, it is referring to information that otherwise would not be in the public domain making it consistent with other parts of code. **Senator McKenzie** stated that this seems to be a category other than personal property. What are the reasons for that section to be included and when would those come up in the context of filing with a taxing agency? **Mr. Reynoldson** stated that the argument you are making is consistent with the argument they make, everything is trade secret in what they do; that would be backup information.

Senator McKenzie asked if it is the intent that financial or trade secrets related to requests for personal or operating property be a part of the regular filing or do you see it as a completely different category that would now be exempted from disclosure? **Mr. Reynoldson** said that he sees it as relating to the personal property.

Mr. Reynoldson continued. As part of the bill, it is the responsibility of the taxpayer to indicate what part of the information going to the taxing entity is confidential. Information can be shared between federal and state taxing authorities for the purpose of paying taxes, in publication of statistics as long as the identity of the taxpayer is not disclosed, or it can be used in tax appeal cases. Certain information will continue to remain public. There is also a process for requests for those exempt records in cases of litigation such as bankruptcies.

Mr. Reynoldson reported that they had worked with the counties to make it consistent with what they are doing and what may or may not be confidential. It is also consistent with the taxpayers in how a taxing agency will treat that information once it is submitted. He will stand for any questions.

Senator Bilyeu asked what was ISTC's problem that brought this about. **Mr. Reynoldson** responded that there was a proposed rule regarding a county evaluation program carried on by assessors requiring a variety of detailed information including characteristics of taxpayers personal property. It required documentation in either electronic or paper format that must be accessible by the public and the ISTC. That raised a great deal of concern. County practices has been to guard this information. The counties were also concerned. **Senator Bilyeu** thought it may have been easier to just change the rule so it was not accessible to the public. **Mr. Reynoldson** said that solution was part of their advocacy but the ISTC suggested that codifying it in state code was the route to go to maintain consistency over time. **Senator Bilyeu** clarified that the county has all of the information and so does the Tax Commission, it just cannot go to the public. Is that correct? **Mr. Reynoldson** answered that the county has all the information. The ISTC usually only asks for the information if there is an appeal or other circumstance.

Senator Werk inquired if this codification represents the standard practice by counties? **Mr. Reynoldson** replied that he doesn't know if he can say that is 100% true. Discussions with and polling by the Idaho Association of Counties indicated this is the practice. **Senator Werk** asked if **Mr. Reynoldson** was representing that the counties are in support of this bill. **Mr. Reynoldson** replied that they represented to him that they are. **Senator Werk** asked if Rule 314 passed. **Mr. Reynoldson** said it has not.

Vice Chairman Siddoway asked if the Tax Commission or the counties have the ability to review those pages the taxpayer marks as confidential to make sure they are proprietary. **Mr. Reynoldson** answered that those are separate documents or categories. If the taxpayer submitted that information and the county saw a basis where it should be publicly released, it would probably

go through the process of litigating whether or not it would be considered confidential. **Vice Chairman Siddoway** inquired if there was any formal review process without going to litigation. **Mr. Reynoldson** said, with the changes on page 6, lines 12-17, it gives the taxpayer the ability to negotiate to either release the information or be named as a party if there is an appeal. **Senator Werk** stated that there is no where in the bill where the county has the ability to disagree that the information marked confidential is not—there is no process. **Mr. Reynoldson** said that the section regarding the marking of confidential information by the taxpayer relates to those personal property records that a taxing official may ask for. He also pointed out what information by statute is public, whether its marked confidential or not. That will continue to be public.

Teresa Baker, Attorney for Ada County and representing Idaho Association of Counties, testified in support of H0239. They are happy with the current bill as written. She answered questions regarding the process for public disclosure. There is not a history of challenges on personal property declarations.

Vice Chairman Siddoway asked if, by making these valuations public, would that create a demand for one neighbor to request the information where there hasn't been one in the past. **Ms. Baker** replied that she did not think so. That may happen with real property but not with personal property.

Ms. Baker said that there is one area where they do get requests for full disclosure and that is in bankruptcy cases and there is a subpoena to back that up. This also puts the onus on the taxpayer to mark the information "confidential." To address the issue of no review, she would argue that there must be a request and there is a review of that request and if there was a question, the assessor would send the request to the prosecuting attorney to review it.

Senator Werk stated that he did not see anything in this code that allows the counties to make any decisions whatsoever if there is a confidential stamp.

Ms. Baker said it is not specifically stated in the bill. But, if an entity marks something confidential and the attorney believes that it is not, they would go through an analysis and review to make that determination – it is their practice even though it is not codified.

Vice Chairman Siddoway called on **Dan John** to add to the discussion. **Mr. John** wasn't prepared to answer any questions but if it is marked confidential, it is confidential

MOTION:

Senator McKenzie moved, seconded by **Senator Hammond**, to send H0239 to the Senate floor with a do pass recommendation.

Senator McKenzie said the fundamental issue is to require disclosure of this information so the amount of tax can be determined. Beyond that, proprietary information that is sent to the taxing entity that makes a successful business should be protected. This is consistent with disclosing to the taxing authority, information that is necessary to calculate the correct tax but beyond that to carefully protect confidential information.

Senator Werk agrees with **Senator McKenzie** and also supports the motion but wants a more definitive answer as to whether or not the claim for the exemption can be questioned at the county level.

VOTE:

Vice Chairman Siddoway stated the question is, should H0239 be sent to the floor with a do pass recommendation. The motion carried by voice vote. **Senator McGee** will be the sponsor.

H0296

RELATING TO THE INCOME TAX CREDIT FOR CAPITAL INVESTMENT clarifying that credit is not allowed for certain investments in property which are allowed under the IRC to arrive at Idaho taxable income.

Mr. John brings this bill from the ISTC. The purpose of the bill is to ensure that there is not an unintended consequence by a non-total conformity with the Internal Revenue Code (IRC). There is one change that inserts the word Idaho. This is in the Idaho Investment Tax Credit Statutes and specifies which properties are eligible for the 3% credit. For several years there has been a provision like the one before you that says that if the deduction is allowed under the IRC in computing taxable income, you do not get to claim the investment credit on those properties. The issue is the definition of Idaho taxable income versus federal taxable income. We did not conform to the provisions of the IRC that allow bonus depreciation for 2010 and going forward. We effectively, if we don't make this change, do not allow bonus depreciation on Idaho returns and, because of the way this provision is written, would not allow the taxpayer to claim the Idaho Investment Tax Credit. The only other change is the correction of some cross references.

MOTION:

Senator McGee moved, seconded by **Senator Werk**, to send H0296 to the Senate floor with a do pass recommendation. The motion carried by voice vote. **Vice Chairman Siddoway** will be the sponsor.

Vice Chairman Siddoway returned the gavel to **Chairman Stegner** at which time sponsors to H0239 and H0296 were assigned.

ADJOURNMENT:

Chairman Stegner thanked **Vice Chairman Siddoway** for chairing the meeting. He announced that there was no specific additional business so meetings are not planned for Wednesday or Thursday this week. Some energy bills dealing with renewable energy may be coming. The meeting was adjourned at 2:55 p.m. subject to the call of the chair.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #2 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
2:00 P.M.
Room WW53
Thursday, March 31, 2011

SUBJECT	DESCRIPTION	PRESENTER
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NOTE TIME CHANGE TO 2:00 P.M.

MINUTES:	March 23, 2011	Senators Hill and McGee
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<u>H0297</u>	RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES to revise the income tax credit available to rated employers for employing new employees and to declare an emergency.	Mark Warbis, Director of Communication & Sr. Spec. Asst. for Economic Development and Energy
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If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner	
Vice Chair Siddoway	Sen McGee
Sen Hill	Sen Hammond
Sen McKenzie	Sen Werk
Sen Corder	Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50
Phone: (208) 332-1315
email: tmelton@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 31, 2011

TIME: 2:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 2:11 p.m. with a quorum present.

APPROVAL OF MINUTES: **Senator Hill** moved, seconded by **Senator McGee**, to accept the minutes of March 23, 2011 as written. The motion carried by voice vote.

H0297 RELATING TO THE SPECIAL INCOME TAX CREDIT to revise the income tax credit available to rated employers for employing new employees presented to the Committee by **Mark Warbis**, Director of Communication and Sr. Special Assistant for Economic Development and Energy.

Mr. Warbis commented that Governor Otter, the legislature, and other Idahoans concluded that jobs were the #1 issue, unemployment is our #1 challenge, and fostering confidence in Idaho's economy must be our #1 priority. Hence, H0297 has evolved. H0297 represents the Governor's best effort to show Idaho's current and prospective employers that the value of their contribution to the economy is worth state government's ability to do our job for the people of Idaho. H0297, called the Hire One Act, was crafted after hearing this Committee's concerns about H0126.

Mr. Warbis proceeded through H0297 giving an account of the changes that have been made since the Committee heard H0126.

H0126 had a 4% tax credit that would apply to employers who hired new employees in the form of a refundable tax credit to the employer. There were concerns about the tax credit not applying to those employers who have been good corporate citizens and who made personnel costs the last to be cut. The new bill identifies employers by their unemployment insurance rating category within the Department of Labor (DOL): 1) Positive rated employers at 6% of the gross annual wages of the new employee; 2) Standard rated employers at 4%; and 3) Deficit rated employers at 2%. This addresses those concerns about long time employers who have helped address the employment problem which is now close to 74,000 unemployed Idahoans. **Chairman Stegner** asked what the approximate distribution of percentage of the employers in the state and where they would fall within those classifications. **Mr. Warbis** answered that the DOL will answer that question when they testify.

Mr. Warbis explained that the base minimum wage changed to overcome the concern that \$12/hour was too low. H0297 allows that counties in the state that have a 10% or greater unemployment rate will have a minimum qualifying salary of \$12/hour and counties that have less than a 10% rate in 2010, will qualify with a \$15/hour minimum salary. H0297 also requires employer provided health benefits as determined by the Department of Insurance instead of accident or health insurance as stated in the previous bill.

Roger Madsen, Director, Department of Labor, agrees that this bill covers some of the Committee's concerns. To answer the question about the percentage of employers in each category; 77% are positive rated, 7% are standard rated, and 16% are deficit rated out of about 50,000 Idaho businesses. **Chairman Stegner** asked what the classification would be for a new employer. **Mr. Madsen** answered that they would be standard rated for six to ten quarters to acquire rating experience. Although there are positive signs around the state, the jobs issue hasn't changed – 74,000 unemployed; 3,000 left the market; and 50,000 working in part-time jobs who really want full-time jobs. About 120,000 Idahoans register each month with the DOL compared to 40,000 before the recession started. Currently, the DOL is paying out about \$12.0 million per week in unemployment benefits which is higher than prior years.

Senator Corder asked for the percentage of businesses that offer benefits. **Mr. Madsen** responded that from a 2009 report, the following percentages offer benefits: 38% of businesses with 10 or fewer employees; 95% of those considered large employers; and 70% of those who employ between 10 and 50 employees. **Senator Corder** said that those small businesses that do not offer benefits would not qualify under this bill. So if a small business might consider increasing their employee costs by \$5000-\$6000 to recoup \$2000 and if they hired a new employee, they would increase their costs on all current employees as well.

Senator Werk said this bill eliminates what is currently in code so what are we giving up? **Mr. Madsen** answered that the credit for jobs at \$15/hour, mostly with smaller businesses, will be eliminated and the larger employers with salaries at \$50,000 will remain in code. **Chairman Stegner** added that the part that will be eliminated is in the strike language on page 1 of the bill. **Senator Werk** asked if there were any large employers moving into the state that would be hiring employees regardless of the bill and, if so, the number of jobs they will bring. **Mr. Madsen** responded that there were at least two; one in Lewiston and one in Chubbuck. Schweitzer will come in at the standard rate because they are new to Idaho and Allstate will come in at their current rate because they have been here for decades. **Senator Werk** stated that it is hard to understand why we should be paying out an incentive to a company for hiring people when they are coming into the state and would be hiring anyway. **Mr. Madsen** stated that this might give Idaho an advantage over other states or encourage a company to expand.

Senator Hill voiced his lack of understanding of lines 22-26, page 1, that outlines the benchmark and how it relates to the annual unemployment rate. **Mr. Madsen** explained that the DOL benchmark is set in March of each year for the prior year. They would work with the ISTC to set that benchmark. **Senator Hill** asked if an employee is hired before March, how would the employer know if he has to pay that employee \$12/hour or \$15/hour to get the credit. **Mr. Madsen** responded that they would handle this situation on a case by case basis working with the Commerce Department and ISTC. The rates do not vary that much from year to year. **Bob Fick**, DOL, explained the process the DOL uses to reach their benchmark.

Senator Hill asked **Dan John**, Idaho State Tax Commission (ISTC), when talking about taxable year, is it the employer or employees taxable year? What year is being measured for "the previous year's benchmarked annual unemployment rate?" **Mr. John** answered that it would be the taxable year of the employer. **Bob Fick**, DOL, explained the process the DOL uses to reach their benchmark. The only benchmark they have is on a calendar basis. **Chairman Stegner** noted that the benchmark is good for one year when it is redetermined. **Mr. Fick** stated that they typically benchmark back two years.

Don Dietrich, Director, Department of Commerce, testified in support of H0297 and explained that there were three major components of Project 60: 1) Creating quality jobs by fostering systemic growth; 2) Recruiting new companies to Idaho; and, 3) Selling Idaho's investment opportunities to the world.

Senator Corder asked where this bill addresses the retention of employees. **Mr. Dietrich** said that the bill requires that the current level of employment is maintained in order to create that next employee position. **Chairman Stegner** clarified that it is not stated in the bill but it is referred to in line 17 where it discusses section 63-3029E(1) that requires a nine month retention period.

Testimony in support of H0297

Doug Sayer, Premier Technology, testified in favor of H0297.

Matt Hunter, Greater Pocatello Chamber of Commerce, spoke in support of H0297.

Chairman Stegner stated that section 63-3029E(1) lays out the parameters for a new employee and that is where the nine month retention is addressed. An amendment has been suggested to make those nine months consecutive months rather than nine months within a calendar year. It would also be better to eliminate the retroactive date so it would not affect the current budgets that have already been set. **Mr. Warbis** agreed with those changes and asked for support of the bill.

Chairman Stegner asked for further questions. H0297 is before the Committee.

MOTION:

Senator McGee moved, seconded by **Senator Bilyeu**, to send H0297 to the Senate floor with the recommendation it be sent to the 14th Order for possible amendment. The motion carried by voice vote. **Senator McGee** will be the sponsor.

ADJOURNMENT: Being no further business, **Chairman Stegner** adjourned the meeting at 3:03 p.m.

Senator Stegner
Chairman

Twyla Melton
Secretary

AMENDED #1 AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
8:30 A.M.
Room WW53
Thursday, April 07, 2011

SUBJECT	DESCRIPTION	PRESENTER
PLEASE NOTE TIME CHANGE TO 8:30 A.M. ON THURSDAY		
MINUTES:	March 16, 2011 March 17, 2011 March 22, 2011 March 29, 2011	Senators Corder and Hammond Senators Hammond and Werk Senators Siddoway and Bilyeu Senators Corder and Werk
PAGE PRESENTATION:	Kristen VanSchoiack	
<u>H0347</u>	RELATING TO THE SALES AND USE TAX ON EQUIPMENT USED IN ALTERNATIVE METHODS OF THE GENERATION OF ELECTRICITY which currently provides for a rebate of the sales and use tax for certain purchases meeting certain requirements by extending the sunset date of July 1, 2011 to December 31, 2014 .	Senator McKenzie and Representative Eskridge

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Stegner
Vice Chair Siddoway
Sen Hill
Sen McKenzie
Sen Corder

Sen McGee
Sen Hammond
Sen Werk
Sen Bilyeu

COMMITTEE SECRETARY

Twyla Melton
Room: WW50

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, April 07, 2011

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Stegner, Vice Chairman Siddoway, Senators Hill, McKenzie, Corder, McGee, Hammond, Werk, and Bilyeu

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Stegner** called the meeting to order at 8:30 a.m. on Thursday, April 7, 2011 with a quorum present.

VOTE ON MINUTES: **Senator Corder** moved, seconded by **Vice Chairman Siddoway**, to accept the March 16th minutes as written. The motion carried by voice vote.

Senator Hammond moved, seconded by **Senator Werk**, to accept the March 17th minutes as written. The motion carried by voice vote.

Vice Chairman Siddoway moved, seconded by **Senator Bilyeu**, to accept the March 22nd minutes as written. The motion carried by voice vote.

Senator Corder moved, seconded by **Senator Werk**, to accept the March 29th minutes as written. The motion carried by voice vote.

Senator Bilyeu moved, seconded by **Vice Chairman Siddoway**, to accept the March 31st minutes as written. The motion carried by voice vote.

Chairman Stegner announced that **Senator McKenzie** would present H0347.

H0347 RELATING TO THE SALES AND USE TAX ON EQUIPMENT USED IN ALTERNATIVE METHODS OF THE GENERATION OF ELECTRICITY to extend the sunset date.

Senator McKenzie stated that H0347 is a companion bill to H0348. Both were contained in a previous bill, H0337. The Senate determined that H0337 should be split into two components; one went to State Affairs as H0348 and H0347 came to this Committee. These bills are the result of a compromise reached between renewable energy developers and the State's three investor owned utilities. H0348 provided for the guidelines to the PUC regarding restrictions on wind and solar qualifying facilities. H0347, this bill, allows for a limited extension of the sales tax rebate for renewable energy equipment that will provide support for that industry to develop. These actions support the 2007 State Energy Plan.

Originally, the rebate sales tax for renewable energy equipment is set to expire June 30, 2011, and this bill extends that rebate for either four months or 40 months, depending on the type of renewable developer. In addition to the original three qualifying events that had to occur before the rebate could be paid, a fourth one was added. It provides for a brief window of time – until October 31, 2011 – for standard avoided cost wind contracts currently before the PUC to gain commission contract approval by that date and still, although later, qualify for the rebate; effectively giving them a four month extension. If they fail to get the contracts approved by October 31st, they lose the rebate. This subsection (d), along with the companion bill H0348, prevents any additional wind and solar standard rate contracts to ever

claim the sales tax rebate for renewable energy equipment purchases. Other types of renewable energy projects can still get a standard rate contract and still file for the sales tax rebate as long as they "achieve commercial operation" of their project by December 31, 2014. **Senator McKenzie** provided further information regarding the 2007 State Energy Plan, comparisons of the activities of surrounding states, and statistics regarding importing/exporting of energy resources.

Senator Corder, Senator Hill, Senator Werk, Vice Chairman Siddoway, Senator Hammond and Chairman Stegner raised questions regarding policy effectiveness, conflicts among energy providers, length of time to put a project into operation and the steps to do that, meeting the energy plan target of achieving a 20% renewable energy production goal by 2020, the fiscal note projections, and finally, the steps to obtain the rebate. These questions were addressed by **Senator McKenzie** and representatives of the industry.

Testimony in support of H0347

Rich Rayhill, Ridgeline Energy

Roy Eiguren, Exergy Development Group

Ron Williams, Idaho Energy Resources Authority and Idaho Energy Ventures

John Watts, Veritas Advisors, Shell-Windland, Inc.

Scott Turlington, Dynamis Energy

Testimony in opposition to H0347

Tauna Christensen, Idahoans for Responsible Wind Energy

Former Senator Stan Hawkins, representing a private citizens group

Senator Corder declared a conflict of interest because his company has done some minor work for these types of projects.

MOTION:

Senator McGee moved, seconded by **Senator Werk**, to send H0347 to the Senate floor with a do pass recommendation.

Senator McGee commented that he has had discussions with others, heard the testimony and, although he was actually against this idea, he has weighed what is best for the state of Idaho as we move into the future. I am going to error on the side that it is good for our long term energy policy and hence, the motion to send it to the floor.

Senator Werk understands the reason for continuing the rebate one more time. There are some difficult challenges for these renewable generation projects. I will support this motion this time, but those developers should not expect to come back and do this again.

Senator Corder requested a roll call vote. **Vice Chairman Siddoway and Senators Hill, McKenzie, McGee, Hammond and Werk** voted aye. **Senators Corder and Bilyeu and Chairman Stegner** voted no. The motion carried.

PAGE

PRESENTATION:

Chairman Stegner called Page Kristen VanScoiack to the podium and presented her with an Idaho State watch, a letter of recommendation, and a letter of appreciation signed by all the Committee members. Kristen responded with comments about how her experiences have changed her opinions and attitudes and that it has been a life changing event for her to have served as a Page.

ADJOURNMENT: Being no further business, **Chairman Stegner** adjourned the meeting at 10:05 a.m.

Senator Stegner
Chairman

Twyla Melton
Secretary